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DISCUSSION PAPER

I

*Challenges, demands and responsibilities of public managers today and the role
of the Supreme Audit Institutions (SAIs)*

THEME IA - *Challenges and demands faced by public managers today*

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Introduction

This paper is a review of the country papers received on the subject of ‘Challenges and demands faced by public managers today’ (theme 1A). Nineteen Supreme Audit Institutions (SAIs) reported a mixture of facts, dilemmas and views. significant vast influence on how public managers understand their work, roles and behaviour.

Section 2 presents a rough sketch of possible future developments based on a theoretical model. This model gives us an opportunity to look at differences and similarities between the countries. The section discusses the trends emerging from the country papers.

Section 3 looks at the dilemmas and issues arising from the country papers. Change in government inevitably leads to new challenges and dilemmas. These are listed in accordance with the views put forward in the country papers.

Section 4 establishes a link between theme 1A and theme 1B on the role of SAIs in the accountability and responsibilities of public managers, setting out a number of specific dilemmas and questions for SAIs.

This paper is intended to act as a platform for debate in Lisbon. The aim of this debate is to share experiences and hence to increase our understanding of the changes taking place in society and government and of the context in which we carry out our work.

Trends in governance

The theme of ‘Challenges and demands faced by public managers today’ illustrates the fact that we are living in a rapidly developing world. Information is now available in any place and at any time. The internet has connected the world, enabling news and information to be provided on demand. The effects of new social media can sometimes take us by surprise. The postings on WikiLeaks, for example, confront governments with totally new questions about the transparency and openness of their own information. Other means of information-gathering are rapidly developing, both for the general public and for governments. There is no longer a set sequence of information sharing. Everything is, and has to be, readily available at all times and in all places.

Developments often have an international dimension and happen overnight. The financial crisis, to which a number of country papers refer, is an example of such rapid change. This crisis has forced governments to react instantly. Governments have to be able to cope with rapid changes such as these. The conventional response of central governments to problems and challenges in society is to create new rules and procedures and allocate new responsibilities. The key question here, however, is whether this type of response is still adequate and effective.

One of the challenges facing governments and public managers is that the pace of change in the real world is often faster than the speed at which rules can be drawn up to meet society’s expectations and needs. Rules are fixed in time and new challenges arise in rapid succession. In other words, preset rules cannot cope with big new challenges. However, this does not mean that these rules are automatically obsolete.

Czech Republic: A measure that must be dropped

One example of a conflict between immediate requirements and the protracted legislative procedures in the Czech Republic was the introduction of “scrappage”, i.e. a financial contribution from the state towards the purchase of a new car provided an old vehicle is disposed of in an ecological way. Scrappage was intended to mitigate the economic crisis’s impact on the automobile industry. By the time all the necessary legislative requirements for introducing this measure were finally in place, its practical need had passed and the measure was dropped.

The real challenge for governments and public managers is to deal with an issue or challenge on its special needs and not on the basis of the rules. Although rules remain important, if a challenge can be met using methods that do not necessarily correspond with these rules, this does not mean that the solution is wrong. Rather, it implies that the rules need to be reviewed and, where necessary, adjusted.

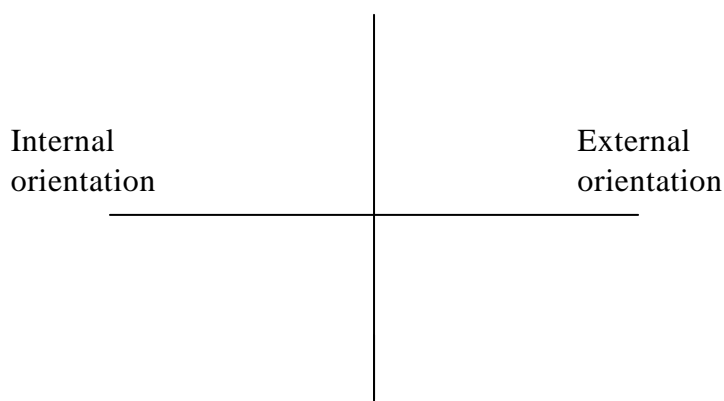
Model of competing values

The question how to deal with new challenges can be examined from different points of view. We have chosen to use the theoretical model of the so called competing values. Originally this model was developed for private sector organizations, but a translation to governments, as we have done, is helpful in clarifying our complicated subject.

The model of competing values is based on the work of Quinn and Rohrbaugh (1983). Quinn and Rohrbaugh conducted a study of what perceived qualities are possessed by effective organizations.

They created a comprehensive list of indicators and then asked a large group of people to fill in a questionnaire based on that list. After the results were analyzed, two dimensions emerged that seemed to influence a company's success. The first dimension was related to focus: internal vs. external. The second dimension illustrates the preference for structure: flexibility vs. control. When placed together, these two dimensions created a grid:

Flexibility



Control

Quinn later went on to define each of the quadrants created by this model and called it the Competing Values Framework.

<p>Human Relations Model Cohesion, moral and Human Resources</p>	<p>Open Systems Model Flexibility, innovation, synergy</p>
<p>Internal Process Model, Process Management, Hierarchy, stability, control</p>	<p>Rational Goal Model Productivity, efficiency, Bottom line</p>

You can see from the graph these values pull in different directions. It is difficult to innovate and be open to new ideas (Open Systems) while at the same time trying to maintain stability and control (Internal Process). It is difficult to focus on the bottom line and drive productivity (Rational Goals) while at the same time keeping your workforce happy and fulfilled (Human Relations).

The Competing Values Framework illustrates how these drives and goals conflict with one another. The most difficult part of being a public manager is recognizing that all of these values are important for a government and must be balanced, according to the needs of society.¹

Four tendencies

Translating this model to governmental orientations, one can plot four possible tendencies, or, if you like, four different possible developments in governmental structure, culture and politics. All these tendencies include possible answers to various challenges and it should be emphasised that there are no good or bad tendencies; they are all answers to certain developments in society.

Nevertheless, given the rapid developments, there is a tendency in modern society to move towards an open system: a more responsive and adaptive governmental system and more open governance. But this more open system is an extension of the classic government based on control and hierarchy. The financial crisis, for instance, shows the need for more rules that restrict the unbridled greed of banks.

¹ Source: <http://www.octogram.net>, consulted: March 15th, 2011.

The country papers gave a lot of information about these tendencies. These will be described here in short together with some examples.

Before doing so, however, it is important to acknowledge the huge challenges that countries are facing. Many countries mentioned in their papers a struggle with corruption. And harmonizing national legislation with EU regulations was also frequently mentioned. The financial crisis has forced countries to make tremendous budget cuts. Although these significant challenges are part of the general challenge of rapid changes; they are not discussed specifically in this paper. The paper focuses on developments in public administration in a new world.

The four tendencies we can identify are:

1. A steady position in the bottom left quadrant.
2. A shift towards an open system, with the aid of instrumental changes. This is a movement via the bottom right quadrant; the rational goal.
3. A shift towards an open system, by focusing on cohesion and morality. This is a movement via the upper left quadrant; human relations.
4. A shift towards an open system, by applying both instrumental changes as well as human resource management.

<p>3 Human Relations Model Emphasis on participation and consensus Focus on cohesion and morality</p>	<p>4 Open System Model Emphasis on innovation, change Applying instrumental changes as well as human resources</p>
<p>1 Internal Process Model: steady position Emphasis on assuring governmental responsibilities and procedures Focus on rules</p>	<p>2 Rational goal: instrumental changes Emphasis on clear direction analyses</p>

Detailed description of the tendencies and examples

1. The ‘steady position’

The bottom left quadrant represents the current situation in the majority of countries. Governments are seeking to strengthen the law and rules; their focus is on controlling society. Ukraine, for example, emphasises the importance of procedures in a young state:

Ukraine: A young state

Ukraine is a young state without a centuries-old system of laws and norms that no longer meets the needs of a modern world. Instead, Ukraine faces another challenge: not all the country's laws have withstood the test of time. Not all of them are fully compatible with the requirements of completeness and consistency. Many of their current implementation procedures contain norms that are in conflict with current EU legislation. All this creates a fertile breeding ground for passing real-time bylaws and resolutions enabling the 'manual governance' of social and economic processes. Under such circumstances, it is more efficient to take measures to guarantee that any new laws adhere to the principles of the rule of law, legal liability, impartial enforcement, co-decision, legal certainty, the non-admission of arbitrary acts, and procedural and legal transparency.

2. Instrumental changes

Some countries have decided to focus on instrumental changes. Emphasis lies on policy results and goal achievement. Rules are still important, but countries seek to escape the limitations of rules and procedures. The country papers mention the following possible instrumental changes:

Fewer rules

One way of ensuring a more external focus and retaining control at the same time is to reduce the number of rules. Azerbaijan has done this by applying the one-window principle.

Azerbaijan: One-window principle

Azerbaijan introduced the 'one-window principle' for entrepreneurs. This means that all rules are concentrated in a single centre. Business owners and managers have automatic, on-line and sustainable contact with the central system. The system has reduced dependence on state bodies, and long-term registration procedures have been either abolished or simplified. The 'one-window principle' also reduces the opportunities for corruption.

Another interesting example of cutting out rules comes from the State Audit Office of Croatia (see below).

Croatia: Hitrorez, the regulatory guillotine project

Endeavouring to remove administrative obstacles and reduce entrepreneurs' expenses, the Croatian government has approved a 'regulatory guillotine project' called Hitrorez. This is an innovative reform instrument that is designed to optimise thousands of national regulations. It is intended to generate rapid economic benefits by successfully eliminating administrative formalities and regulations. After a thorough assessment, a special Hitrorez unit makes a list of all regulations considered to be redundant or in need of amendment. Its recommendations are then implemented by the government, acting in cooperation with state administration bodies.

Framework law

Framework law is legislation that offers scope for interpretation. Framework law assumes that the government's role is to facilitate society rather than to lay down detailed rules. Rule-making is often decentralised, with local authorities responsible for rules and regulations. The Danish Rigsrevisionen reports as follows:

Denmark: framework laws

In Denmark, the legal framework has no difficulties in coping with the rapid changes in society. Many Danish laws are framework laws or political four-year agreements allowing room for interpretation in specific situations, thus making it possible to judge a case on its own merits or for the rules to be adjusted to accommodate new conditions.

Because framework law goes into less detail, the amount of time from scratch to implementation is much shorter compared with 'conventional' laws.

Temporary laws, emergency laws and regulations

Germany, Norway, Romania and Switzerland mentioned the possibility of temporary laws, or emergency laws and regulations. This is one way of coping with a temporary situation or a situation that requires immediate action. This is illustrated by the Swiss example below.

Switzerland: enacting emergency law as a rapid response

Emergency law enables parliament and government to respond quickly to unforeseen, exceptional situations. Hence, Switzerland has coped relatively well with the financial and economic crisis. Parliament quickly passed a rescue package for UBS, a big Swiss bank. The same thing happened in 2001, when Swissair was rescued thanks to rapid government action.

Romania reports that temporary laws cannot be enacted to solve structural problems. This is illustrated by the following quotation from the Romanian Court of Accounts.

Romania: structural problems and temporary laws?

A stable legal framework is required in the field of taxation, one which takes time to change. When the economy is faced by certain cyclical changes – as is the case with the current crisis - the law can be changed for a predefined period of time.

Speeding up the legislative process

Another way of responding to rapid social change is by speeding up the legislative process. This can be done, for example, by making the process more efficient, but the same result can also be achieved by leaving out certain time-consuming steps.

Moldova: permission to go beyond the scope of organic laws

In Moldova, the transition to a market economy is not accompanied by appropriate legislation. It is not possible to regulate the reform of vital areas of the whole economy, including imports, exports, the banking industry, etc. In this regard, in accordance with the country's constitution, the Moldova government is entitled to take decisions, issue orders and make provisions. Moreover, in order to implement the government's work programme, parliament may adopt, on its own initiative, a special law enabling the government to issue orders in fields that fall outside the scope of organic laws.

3. Human relations

Another possibility is to move towards a more open system by focusing on human relations between government and society. Participation and decentralisation are examples of how this trend may be expressed. Access to

information and new learning for organisational culture are other ways of moving towards a more open society, and leading by example is one of the most important ethical principles here. The following are requisites for a more flexible mode of governance:

- The ability of the political system to cope with rapid change, rather than a focus on internal administrative expertise.
- Greater transparency in response to citizens' requests.

Norway

The public expects the state to intervene when necessary, and to take appropriate measures. The path from the citizen to the decision-makers is short, and there is ample possibility to influence a local representative in parliament, so that she will raise a particular issue with her colleagues.

- Cooperation between government, civil society and private-sector organisations with a view to finding better solutions.
- Improved professional skills and ethical standards in the civil service.

Russia: Education

Raising the standard of education in the civil service is an important aspect of the process of raising the standard of public service delivery. Civil servants must be able to respond adequately to new problems placed before them. The organisation of professional training programmes and continuing education for staff needs to be a priority for all state agencies.

Cyprus: Strategic target

The Cypriot government is in the process of educational reform, as part of its strategic target to update and qualitatively upgrade the educational system, in order to ensure that future civil servants will benefit from a good education in order to meet the challenges. The reform will affect primary, secondary and higher education.

- Opening up certain stages of the decision-making process to the public

United Kingdom: Business Plans

With regard to the process of reducing the deficit, after the Spending Review all government departments will be required to publish Business Plans setting out how they will achieve their objectives over four years. It is expected that these will include details of how they will keep the public informed of progress.

- Enhancing social skills
- Focus on e-governance
- Freedom of information
- Moral leadership

The Netherlands Court of Audit, for example, cites ‘*leading by example*’ as a potential form of moral leadership by public managers. The following example from the Portuguese Tribunal de Contas illustrates the principles of good governance as defined by the State of Portugal as guidance for state-owned companies.

Portugal: the principles of good governance for public companies

Portugal defines the principles of good governance both in terms of their relevance to the state as a shareholder and stakeholder and in terms of their application to state-owned companies. State-owned companies must:

- Define sustainability strategies in economic, social and environmental fields, identifying the objectives they wish to achieve and describing in detail the relevant planning, implementation and control instruments.
- Adopt equality plans, after analysing the situation, aimed at achieving an effective equality of treatment and opportunities between men and women, eliminating discrimination and enabling employees to reconcile the disparate interests of their personal, family and professional lives.
- Treat their employees with respect and integrity, actively contributing

to their professional skills.

- Have or acquire a code of conduct demanding high standards of ethical and deontological behaviour, and disseminate this code to all their employees, customers, suppliers and the general public.
- Promote the rotation and limitation of mandates of members of its supervisory boards.

Also:

- Members of the management board should refrain from intervening in decisions which involve their own interests, notably in the approval of expenses incurred by them.

4. Instrumental changes and human relations

Of course, it is possible to do both, i.e. to adopt instrumental changes and focus on changes in human relations at the same time. In fact, a mix of flexibility and control is the most realistic tendency.

Malta

As a small island heavily reliant on tourism, Malta is at considerable risk of suffering the ill-effects of global challenges and economic recession, with all the negative repercussions these can bring about. (...) Malta also has to deal with the impact of emerging phenomena, such as people trafficking.

Malta applies both instrumental changes (i.e. changes in the legal and institutional framework) as well as changes in human relations (i.e. education and raising the participation of civil society) to confront these challenges.

Sweden: Codes of ethics

Based on the reasoning above, one can discern an uncertainty, a dilemma, not to say a major challenge that public managers in Sweden face today. On the one hand, the state controls the procedures and the achievements of the public sector with clear directions and laws, whilst the performance targets tend to be less prominent. On the other hand, there is a general trend in Swedish society, including within the public sector of moving towards an increased international focus and flexibility, multiple players, softer and cross-border directives, network oriented agreements etc. This puts great demands on public managers today, and requires not only knowledge and understanding of the surrounding world, but also a sound, relevant education, a firm base in common values and codes of ethics, as well as “allowing” institutional preconditions.

We found examples of adjustments to a changing society corresponding with each of the four tendencies outlined above in all nineteen country papers. This shows that day-to-day challenges provoke changes in government action and a movement in the direction of an open-system society.

Questions and dilemmas

Section two describes the main trends identified in the country papers towards an open, flexible form of government. There are certain developments that present us with new problems and dilemmas. This paragraph describes the dilemmas that will be faced in the future by governments all over the world.

Striking a balance between legal security and flexibility

By far the most important dilemma is the conflict between legal security and flexibility. ‘*Legal security is a valuable asset*’, as the Swiss Audit Office points out. The German Rechnungshof writes that ‘*questioning existing laws is not a valid option, either for public managers or for the German SAI*’. Sometimes, however, overly narrow interpretations of the law can cause the collapse of systems. Many other countries stressed the paramount importance of legal security.

This does not mean that countries are closing their eyes to the need to respond to changes. Formal procedures for enacting laws may be too slow for rapid change. The question is, however: is it possible to adapt to rapid changes without abandoning legal security?

A. Framework law versus detailed law

Four country reports refer to framework law and the need for freedom in the interpretation of rules. Such laws are sustainable, because not every change in society requires a change in the law. They allow governments to leave certain decisions to civil-society organisations, institutions, local governments and so on. On the other hand, detailed laws are very important for the accountability of national governments. Detailed laws provide better guarantees of democratic control than framework laws. So how can we manage this dilemma? How far can governments go in enacting framework laws?

B. Temporary laws (crisis-management laws) versus fixed laws

For example, anti-terrorist laws that are intended to restrict citizens' privacy are fixed laws, whereas the problem (i.e. the perceived terrorist threat) is generally temporary. Is this situation right?

Decentralisation versus centralisation

In order to solve certain national problems, it may be helpful to decentralise certain responsibilities to local and regional governments. Local and regional authorities can respond more quickly and more effectively (i.e. hands on) to certain changes and events. Decentralisation requires national framework law, i.e. local decisions need to be framed in a national law, but the local entities can design their own policies in areas within their competence through programme-oriented action, as it is the case in Spain. This takes us back to dilemma 1A, i.e. framework law versus detailed law. On the other hand, local government often has its own representative structures, elections, etc. Perhaps the dilemma is one of equity, or the lack of it, at a nationwide level.

Quick response versus participation/democracy

Sudden changes and events require quick responses from governments. The financial crisis is the best topical example. This is a crisis to which governments need to respond extremely urgently in order to prevent more severe financial and economic damage. On the other hand, rapid responses may also be a threat to democratic values and standards – as Ukraine has already pointed out. Acting contrary to procedures established by law could result in poor decision-making. A lack of democratic control increases the risk of corruption and populism.

So how can we deal with this dilemma? The country papers describe the following possibilities:

- Civil-society participation: no long juridical procedures, a guarantee for democratic control and decision-making.

- Distinguish between the long-term strategy and short-term bureaucracy. The long term is the domain of politics, whereas short-term bureaucracy and implementation is the province of the civil service. For this reason, civil servants need to be trained for new public management tasks, and politicians need to be trained to take strategic decisions.
- Issue rules and regulations rather than laws. Rules and regulations are easier to adopt and more practical in their application than laws.

Formal procedures versus efficiency

Of necessity, negotiations and procedures in a complicated world are also complicated. The EU regulations on government procurement are a case in point. Procedures are important for guaranteeing the care, for protecting government liability, for creating a level playing-field between countries and companies, and so on. But *formal procedures* can also be inefficient. In Iceland, for example, a very narrow interpretation of laws by managers of the monitoring and regulating authorities caused the collapse of the banking system. Only when the financial crisis broke out, was it possible to respond to emerging challenges in a more flexible and dynamic manner.

Some countries have the option of simplifying rules and procedures if necessary. A one-window office for companies is an example of a simplified procedure.

Are all these measures the solution to this dilemma or are there other possible solutions? How can SAIs audit the solutions imposed by governments? These are pivotal questions and dilemmas that illustrate the changing world in which we operate. In your preparations for the congress, please consider your country's and your SAI's position.

Dilemmas for SAIs: a bridge to theme 1B

The discussions of themes 1A and 1B (i.e. the role of SAIs in accountability and responsibilities of public managers) during the Congress should produce a number of joint conclusions and recommendations. Below we have identified topics that are of interest to both sessions. These 'bridges' have been formulated as questions, so that they can act as a starting point for discussion.

Introduction

As we have seen, one of the major challenges for public managers is to adapt and respond to the rapid changes in society. Most SAIs, but not all, refer in their country papers to a movement in government from a focus on internal structures and control (i.e. the internal process model) towards a more open and flexible

system. Most public organisations are currently on a journey towards that goal, each taking a different path. These changes, and how public organisations cope with them, also generate some specific questions for SAIs. The three main questions that might be discussed in relation to theme 1B are:

In a flexible system, what is the basis for an SAI's findings?

In a more flexible and more externally oriented system, i.e. an open-system model, rules and procedures are not absent. Instead, they form a basic framework within which there is room for interpretation. Here, the principle underlying the rule is more important than the letter of the rule. But since rules and procedures are the foundations on which SAIs base their opinions, the question is: how can SAIs meet this challenge? For instance, is it enough to look at the objective of a rule rather than at the letter of the law?

Following on from this question, how can public organisations be accountable in a flexible system? Is it sufficient to follow a 'comply or explain' procedure where the public institution either complies with a rule or explains why it does not follow it? Is this a solid enough basis for an SAI to form an opinion on?

How can SAIs strike a balance between regularity and performance?

The emphasis in a more open system will shift from strict compliance with the law to finding the most effective and efficient solution to a particular problem, bearing the underlying law in mind. So if public organisations shake off their regulatory straitjacket and have more room for manoeuvre under framework laws, how can SAIs still perform statutory tasks such as regularity audits?

How can civil society be involved in the work of SAIs?

In a more open, flexible government, civil society is more closely involved in decision-making. People want to know how decisions are taken and by whom. Civil servants and politicians need to take account of civil society and its needs. The question for SAIs is whether they should also involve civil society in their work as a way of raising public awareness of the operation of government. Should it become routine for SAIs to involve civil society in their performance audits?