

Negotiating EU Accession: Policy Approaches of Advanced Candidate Countries from Central and Eastern Europe

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Introduction

This paper describes and compares how the accession countries prepare their positions in negotiating their Accession Treaties with the EU and its member states. It is focused on mechanisms, procedures and institutional arrangements of policy coordination that have evolved since the start of the accession negotiations in April 1998. The aim of this exercise is to improve our understanding on:

- how heterogenous political interests are translated into policy formulation;
- how Governments achieve a coordination of varying interests, priorities and actors; and
- whether and how the national adaptation to the EU system transforms national political structures beyond the substantive aspects of the *acquis communautaire*.

The report is confined to those five Central and East European countries that have begun accession negotiations earlier and thus are assumed to have accumulated considerable experience in preparing for negotiations. It is intended to provide the report to decision-makers and analysts in those countries which have started negotiating in February 2000 since a comparative overview may contain useful knowledge for those who are faced with the task of organising the negotiation process. Apart from the sources and documents quoted in the text, the report draws on a series of interviews with high-level representatives of the Diplomatic Missions of the five accession countries in Brussels (March 2000).¹

In the first part of the report, a descriptive account is given on the institutions and organisations which are involved in the accession negotiations in each of the five accession countries. The second part compares the institutional arrangements according to political, policy and process coordination functions required for preparing and conducting accession negotiations. The third part gives an overview on the contents of the negotiation positions the five countries have adopted on the free movement of persons (chapter 2), the free movement of capital (chapter 4) and agriculture (chapter 7). The conclusion seeks to identify the different national policy approaches in a comparative framework.

¹ We would like to thank our interview partners for their kind cooperation and support. In addition, thanks go to Radoslav Zubek for helpful comments on an earlier version of this paper. However, the authors are solely responsible for all statements contained in this report.

I. Country Profiles

Czech Republic

1. The *Negotiation Delegation* is headed by the First Deputy Minister of Foreign Affairs and Chief Negotiator, Pavel Telicka, and consists of 12 members: Four diplomats of the Ministry of Foreign Affairs (including the Chief Negotiator), high-level civil servants from the Ministries of Finance, Trade and Industry, Justice, Interior, Agriculture, from the Centre for Environmental Issues at the Charles University, from the Czech National Bank and a representative of the Deputy Prime Minister for Economic Policy.² The Members of the Delegation are appointed by the Government.

2. The Negotiation Delegation is assisted by 31 *Working Groups*, corresponding to the chapters structuring the *acquis communautaire*. The Working Groups are headed by a representative of the Ministry responsible for the respective chapter and involve experts from other Ministries, academic experts and representatives of interest groups. The Groups have participated in the screening of the *acquis* and they support the line Ministries in formulating proposals for negotiation positions. The line Ministry representatives heading the Working Groups submit the proposals to the Working Committee. If questions arise in the Committee, the proposals may be referred back to the Working Groups for clarification. If the Working Committee agrees on a negotiation position, the Chief Negotiator submits the position to the Committee for European Integration for a decision.

Line Ministries have played an important role in the implementation of the Europe Agreement, too. In November 1994, the Klaus Government transferred sectoral responsibilities for implementing the Agreement and for EU relations to line Ministries.

3. The *Committee for European Integration* has 12 members: The Ministers of Foreign Affairs (Chairman), Labour and Social Affairs, Finance, Legislation (all four being Deputy Prime Ministers), the Ministers of Interior, Justice, Industry and Trade, Regional Development, and Agriculture, the Chief Negotiator, and the Governor of the Czech National Bank.³

The Committee is concerned with conceptual and strategic questions of the preparation for EU membership. The Committee may take decisions on the negotiation positions which are, however, contingent upon the approval of the Cabinet. As a rule, decisions are taken unanimously; the Minister of Foreign Affairs and Chairman of the Committee decides if no consensus is reached. Proposals for

² Government Resolutions No. 139 of 2 March 1998, No. 182 of 11 March 1998, No. 15 of 6 January 1999.

³ Government Resolution No. 1333 of 13 December 1999; OECD-SIGMA Public Management Profile Czech Republic, <http://www.oecd.org/puma/sigmaweb/index.htm>.

the Committee are submitted by its members or by the Deputy Minister of Foreign Affairs and Head of the Negotiation Delegation who also represents the Working Committee for European Integration. Decisions of the Committee are binding if they are accepted by the Government. The Committee is convened on an adhoc basis. The Committee is assisted by the Office of the Minister of Foreign Affairs within the Office of the Government and by the Section for EU relations in the Ministry of Foreign Affairs.

The Committee decides on disputes not solved in bilateral talks between the Minister of Foreign Affairs and the Minister concerned. In addition, the Committee holds seminars for the Members of Government, the heads of other central organs of state administration and the deputies and senators of the Czech Parliament. Members of the Committee are obliged to participate in such seminars and other actions in order to improve their knowledge on the EU. The Committee also coordinates and organises the public representation of Members of Government on issues of Czech EU-membership and accession.

Until 1999 the Ministers of Transport and Telecommunication, Environment, Defence, and the Presidents of the Supreme Control Office, the Czech Statistical Office, and the Office for the Protection of Economic Competition were members of the Committee.⁴ The Committee was headed by the Deputy Prime Minister for Security and Foreign Policy, Egon Lánský, until his resignation at the end of 1999. In a study on the reform of the Czech public administration elaborated in 1999, the World Bank reported that some Ministries not involved considered the Committee as 'top-heavy'. For example, the Ministry of Justice frequently refrained from going through the Committee and contacted EU institutions directly.⁵ In order to improve its efficiency, the Government reduced the size of the Committee and extended the powers of its new chairman, the Minister of Foreign Affairs and Deputy Prime Minister in December 1999. The Chairman was enabled to demand information and analyses from other Ministers, assign them tasks concerning EU integration, and ensure that those tasks are being fulfilled. In addition, the Government created a 'Presidency' of the Committee, consisting of the Ministers of Foreign Affairs, Labour and Social Affairs, Finance, Legislation, and the Chief Negotiator.⁶

4. The *Working Committee for European Integration* has approx. 30 members: the First Deputy Minister of Foreign Affairs and Chief Negotiator (Chairman), and the Deputy Ministers or other leading civil servants of line Ministries, of the Supreme Control Office, the Czech National Bank, the Czech Statistical Office and the Office for the Protection of Economic Competition. One Deputy Chairman is proposed by the Deputy Prime Minister for Economic Policy, the other Deputy Chairman is proposed by the Minister of Foreign Affairs.⁷

⁴ Government Resolution No. 658 of 7 October 1998.

⁵ Rupp, Michael A. (1999): *The Pre-Accession Strategy and the Governmental Structures of the Visegrad Countries*, in: Karen Henderson (ed.): *Back to Europe: Central and Eastern Europe and the European Union*, 89-106, 97.

⁶ RFE/RL Newline of 14 December 1999, based on a CTK information.

⁷ Government Resolution No. 658 of 7 October 1998.

5. The *Department for European Integration in the Ministry of Foreign Affairs* has approx. 60 employees who provide administrative support for the Committee of European Integration, the Working Committee and the Negotiation Team. The Department also coordinates the implementation of the Accession Partnership and the Europe Agreement. Although the Department has no sectoral expertise, it has the capacity to provide opinions on issues for the Chief Negotiator.

The Minister of Foreign Affairs represents the Czech Republic in the Association Council, and the Director General of the Department for European Integration is the Czech representative in the Association Committee.

During the time of the Klaus Government, the Civic Democratic Alliance proposed to appoint a Minister without Portfolio and the Czech Social Democratic Party proposed to establish a separate Ministry for European Integration. Yet the social-democratic Government did not realise these plans when it took office in June 1998.

6. The Senate and the Chamber of Deputies have both established *Committees on European Integration*. In addition to the creation of a Committee for European Integration in the Chamber of Deputies in July 1998, the Senate set up a committee for European Integration in December 1998. It has the right to propose to veto legislation sent by the Chamber of Deputies if it considers that an item is incompatible with EC law. After their adoption by the Cabinet the positions are presented to the parliamentary Committees and to the general public.

In June 1999 the Government failed to adopt a Constitutional Law according to which it would be allowed to pass EU-related legislation by Decree. Based upon the amended Opposition Agreement of January 2000 the Parliament changed its rules of procedure so that EU-related legislation does no longer require three readings of Parliament.

Estonia

1. The *Negotiation Delegation* consists of a Main Delegation and of the Heads of 31 Working Groups.⁸ Members of the Main Delegation are the Minister of Foreign Affairs (head), the Deputy Secretary General in the Ministry of Foreign Affairs (Deputy Head of the Delegation and Chief Negotiator, Alar Streimann), civil servants from 11 line Ministries, the Head of the Office for European Integration of the State Chancellery, and the Head of the Estonian Mission to the EU (15 persons). The Delegation has no special responsibilities, it is a supportive structure that coordinates the formulation of the positions. Positions are formulated by the Ministry of Foreign Affairs and formally adopted by the Cabinet. If a position needs to be changed in the course of the negotiations, the Cabinet has to re-adopt it.

2. Corresponding to the negotiated chapters, 32 *Working Groups* have been established (two Working Groups are concerned with the chapter on agriculture.) The Groups are headed by ministerial and state administration officials who are also members of the Negotiation Delegation. The Groups examined the *acquis* together

⁸ Cf. <http://www.vm.ee/euro/english/fact-sheet/>

with the Commission in the framework of the screening process, analysed Estonian legislation, and elaborated proposals for negotiation positions. For each group, one Ministry or agency is responsible for arranging the work and selecting the participants. The size and composition of the Groups vary. External experts and representatives of interest groups are participating in most Groups. Apart from the Ministries, the following agencies lead a Working Group: Consumer Protection Board, National Competition Board; Statistical Office; National Health Protection Inspection; Inspection of Telecommunications.

3. The *Council of Senior Civil Servants* coordinates the implementation of the National Programme for Adopting the Acquis and the Accession Partnership commitments. It consists of senior representatives from all line Ministries (except the Ministry of Defence), the Estonian National Bank and the Head of the Office for European Integration (chairman). The Council prepares the National Programme for the Adoption of the Acquis Communautaire and submits it to the Cabinet. The Council meets fortnightly or on an adhoc basis. The Council is assisted by the Office for European Integration in the State Chancellery.⁹

4. The *Office for European Integration in the State Chancellery* coordinates and monitors the implementation of the *acquis communautaire* and of the priorities stipulated in the Accession Partnership. It is headed by a Director and has a staff of approx. 14 persons. The Office also provides analyses for the Prime Minister on EU-related issues.

5. The *Commission of Ministers for EU Affairs* consists of the Prime Minister (chairman), the Ministers of Foreign Affairs, Economic Affairs, Justice and the State Secretary of the Office for European Integration.¹⁰ The Commission discusses the negotiation positions before they are adopted by the Cabinet.

6. The Ministry of Foreign Affairs has recently set up a *Consultative Committee* consisting of representatives of NGOs. This informal structure originated in a commitment of the Minister to provide the public with information on the negotiation process. When the Ministry of Foreign Affairs formulates a negotiation position the Ministry informs the Consultative Committee and the Parliamentary Committee for European Integration about the content of the position. In addition, the Chief Negotiator regularly briefs the Parliamentary Committee on the state of the negotiation process. With respect to highly political issues, the Prime Minister represents the Government in the Parliamentary Committee. The exact contents of the positions are treated as confidential.

⁹ OECD-SIGMA Public Management Profile Estonia, at: <http://www.oecd.org/puma/sigmaweb/index.htm>

¹⁰ Nunberg, Barbara et al. (1999): Public Administration Development in the EU Accession Context. Estonia, (internal document, The World Bank).

7. In the *Department of European Integration in the Ministry of Foreign Affairs*, a *Negotiations Task Force* has been set up to coordinate the preparation of the negotiation positions by the Working Groups and to assist the Negotiation Delegation by reporting and disseminating information. The Task Force consists of six experts, each of them being responsible for several chapters of the acquis. Another unit of the the Department coordinates the implementation of the Europe Agreement. Most of the Ministries are involved in the implementation of the respective provisions of the Europe Agreement. While the Minister of Foreign Affairs represents Estonia in the Association Council, the Chief Negotiator is also the Estonian representative in the Association Committee.

8. On the parliamentary side, the Committee on European Affairs of the Riigikogu (Estonian Parliament) closely monitors the Government's European integration activities and the negotiations. The Vice-Chairman of the Riigikogu heads the Committee and every parliamentary party is represented. Members of the Negotiation Delegation regularly report to the Committee on the conduct of negotiations.

Hungary

1. The *Negotiation Delegation* is headed by the Minister of Foreign Affairs and consists of 15 permanent members (incl. the Minister) and of two occasional participants (the Political State Secretary of the Prime Minister's Office and the Deputy President of the Hungarian National Bank).¹¹ The permanent members are the State Secretary heading the State Secretariat for European Integration of the Ministry of Foreign Affairs (Péter Gottfried), the Chief Negotiator who also leads the Hungarian Mission to the EU (Endre Juhász), high-level civil servants from the Ministries of Foreign Affairs (4), Finance (1), Justice (1), Agriculture and Rural Development (2), Interior (1), Transport, Communication and Water Management (1), Environment (1) and from the Hungarian Committee for Norms (1). The Negotiation Delegation is primarily concerned with analysing and monitoring strategic and tactical questions of the negotiations.

2. 29 *Expert Delegations* participate in the screening of the acquis chapters. The members of these delegations are appointed by the line Ministry with the relevant task assignment and the Ministries with horizontal responsibilities (Ministry of Finance, Ministry of Justice, Ministry of Foreign Affairs). The Expert Delegations, which consist of 5-10 members, prepare the negotiations, elaborate the Hungarian draft positions, submit them to the Chief Negotiator and provide for the operative management of the negotiations in Brussels. They involve also external experts and interest group representatives. The Expert Delegations are the successors of the Working Groups of the Inter-ministerial Committee for European Integration. Each

¹¹ Cf. <http://www.mfa.gov.hu/euanyag/szi/eu/>

Expert Delegation has a contact person in the Hungarian Mission in Brussels. For this purpose, 17 of 19 employees in the Hungarian Mission have worked in line Ministries and possess sectoral expertise. If disputes arise in an Expert Delegation, the issue is referred to the Conference of Administrative State Secretaries. If an issue cannot be solved on this level, the Cabinet decides.

3. The *State Secretariat for European Integration of the Ministry of Foreign Affairs* coordinates the preparation of the Hungarian negotiation positions, and organises and coordinates the work of the Delegation.¹² It has approx. 100 staff and is headed by a State Secretary. Its Head and two deputy heads are appointed by the Prime Minister upon the proposal of the Minister of Foreign Affairs. The Minister of Foreign Affairs is responsible for the general guidance of the accession process. Each Ministry is responsible for the preparation of negotiations on the chapter of the *acquis* pertaining to it. Although during the preparation of the negotiation positions their exact content was considered confidential, the State Secretariat for European Integration provided the positions to the Parliamentary Committees on European Integration and on Foreign Affairs. After the submission of all positions, their text has been made available to the public.¹³ Before the State Secretariat was assigned the main coordination role in 1996, the European Department within the Ministry of Industry and Trade performed more coordination functions.

4. The *Inter-ministerial Committee for European Integration* is headed by the Deputy State Secretary for European Integration of the Ministry of Foreign Affairs and consists of Deputy State Secretaries from all line Ministries. The Committee provides for inter-ministerial coordination with respect to the implementation of commitments accepted by Hungary in the Europe Agreement and in the framework of the accession negotiations. While the Minister of Foreign Affairs represents Hungary in the Association Council, the State Secretary for European Integration is the Hungarian representative in the Association Committee. The current Hungarian Government has abolished the Cabinet Committee for European integration that operated under the previous Government on the level of Ministers (until 1998). Since July 1999 the Cabinet is dealing with all aspects of the integration process (positions, preparatory programmes etc.).

5. The *Cabinet* takes binding decisions on questions of accession negotiations and adopts, by a Resolution of the Government, the mandates for the negotiation positions and for the screening of each chapter of the *acquis*. Proposals for screening mandates are submitted by the responsible line Ministry in cooperation with the Ministries of Foreign Affairs, Justice and Finance. The negotiation positions of the Hungarian Government are submitted by the Minister of Foreign Affairs and adopted by the Government. It is the Chief Negotiator who formulates the draft positions for the Minister of Foreign Affairs on the basis of the proposals of the Expert Delegations. If the position has to be changed in the course of negotiations

¹² Government Resolution No. 2179 of 22 July 1998; OECD-SIGMA Public Management Profile Hungary, <http://www.oecd.org/puma/sigmaweb/index.htm>

¹³ <http://www.mfa.gov.hu/euanyag/SZI/Allaspont/ENGLISH/>

the Minister of Foreign Affairs has to ask the Cabinet for a new mandate. EU requests for further information and clarification can be agreed between the Chief Negotiator and the Head of the State Secretariat for European Integration in the Ministry of Foreign Affairs on the one hand, the concerned line Ministry on the other.

6. The *Parliamentary Committees* on European Integration and on Foreign Affairs are informed on the general content of the negotiation positions and on the progress of the negotiations. The Committees and the parliamentary deputies express their views on the positions but do not approve them.

7. The *European Integration Council* consists of the trade unions and business associations and their special organisations linked to the European-level social dialogue, the Ministry of Foreign Affairs, the representative of the Ministry of Economics (permanent invitee) and occasionally also other Ministries. The Council provides for consultation, mutual information and exchange of opinions on issues of EU accession.

8. The *Strategic Working Group* for Integration provides background studies for some Expert Delegations. The Working Group is coordinated by the Prime Minister's Office. Phare Assistance is coordinated by a Minister without Portfolio attached to the Prime Minister's Office. During the previous Government, this group was called "Strategic Task Force" and had a much more prominent role.

Poland

1. The *Negotiation Delegation* is headed by the Chief Negotiator and Plenipotentiary of the Government (Jan Kulakowski) who is appointed by the Prime Minister, based upon a Decree of the Government. The Delegation consists of 16 further members who are personally appointed by the Prime Minister. These members are the Head of the Polish Mission to the EU, and Deputy Ministers or state secretaries from key line Ministries (i.a. Finance, Economy, Agriculture, Labour, Justice, Interior, Transport, Environment). The representatives of the line Ministries are, however, not expected to represent the position of their Ministries within the Negotiation Delegation. The Delegation has a Deputy Head from the Ministry of Foreign Affairs and a Secretary from the Office of the Committee of European Integration. The Delegation usually decides by consensus and has voted only twice.¹⁴

2. *Inter-ministerial Working Groups* prepare the negotiation positions on each chapter of the *acquis*. They consist of civil servants from several Ministries and consult drafts with interest groups and external experts. The Working Groups submit these positions to the Negotiation Delegation. If a position has been adopted by the

¹⁴ Cf. <http://www.ukie.gov.pl/>

Negotiation Delegation, two Working Groups led by the Ministry of Finance and the Centre for Strategic Studies verify the budgetary and economic-social cost assessments attached to the position. Then the positions are discussed in the inter-ministerial Committee of European Integration. The Committee submits them to the Council of Ministers which decides on the adoption of the position. The Plenipotentiary presents this position to the Sejm Commission for European Integration. If sensible issues are discussed, a Political Committee is involved which consults with the party leaders, takes a decision and then passes the position to the Committee of European Integration. If a negotiation position is changed in the course of negotiations, such a change needs the prior approval of the Cabinet.

3. The *Committee of European Integration* is headed by the Prime Minister and consists of the Ministers of Foreign Affairs, Interior, Agriculture, Economy, Justice, Finance, Social and Labour Affairs, and Environment, and up to three persons appointed by the Prime Minister. The Committee was established in October 1996 and is the successor of the Government Plenipotentiary for European Integration and Foreign Assistance. The Minister of Foreign Affairs is the Deputy Chairman of the Committee.

3. A *Political Committee* consisting of the Prime Minister, the Minister of Foreign Affairs and the Chief Negotiator, takes political decisions. The Committee meets every 14 days.

4. The *Office of the Committee of European Integration* assists the Committee and executes its tasks. The Office has approx. 200 staff and consists of three sections:

- 1.1. Dpt. of Integration Policy
- 1.2. Dpt. of Approximation of Law
- 1.3. Dpt. of Analyses of European Relations
- 1.4. Dpt. of Services for the Accession Negotiations

- 2.1. Dpt. of Coordination and Monitoring of Foreign Aid
- 2.2. Dpt. for Programmes of Institutional Development
- 2.3. Dpt. for European Information and Education; attached is the Centre for European Information

- 3.1. Secretariat of the Committee of European Integration
- 3.2. Office of the Director General
- 3.3. Administrative-financial Office

The Office has been separated from the Office of the Council of Ministers and has received competencies for implementing and realising the Europe Agreement and preparing membership (compared to the former Office of the Plenipotentiary). The Office is headed by the Committee of European Integration and, until 2000, the operative leadership was exercised by the Undersecretary of State Pawel Samecki as acting Secretary of the Committee. In 2000 the Prime Minister appointed Jacek Sariusz-Wolski, the former Plenipotentiary of the Government, to perform the operative management of the Office.

The Office coordinates accession-related legislation, monitors the compatibility of bills with EU legislation, manages the implementation of foreign assistance programmes and coordinates the implementation of the Europe Agreement. The role of the Minister of Foreign Affairs is confined to representing Poland in the Association Council. Phare and the pre-accession funds are managed by the Office, the Ministry of Foreign Affairs is merely informed about the implementation of programmes.

5. The *European Integration Commission of the Sejm* does not participate in the formulation of positions since a political coordination is ensured by the inter-ministerial Committee of European Integration and by the leaders of the parties of the governing coalition. Interest groups and NGOs are involved on the level of working groups, but they do not know the exact content of the negotiation position and have only a general knowledge of the position.

6. The *National Council for European Integration* is a consultative body subordinated to the Prime Minister, consisting of 47 advisors and experts from NGOs, research institutes and interest groups. Its main function is to support the communication policy of the Government with respect to the accession and to advise the Prime Minister on sensible political issues.

Slovenia

1. The *Negotiation Delegation* consists of 11 members: The Director of Macroeconomic Analysis and Development in the Government Office for European Affairs (Janez Potocnik, Chief Negotiator); four State secretaries from the Ministries of Agriculture/ Forestry and Food, Economic Relations and Development, from the Government Office for European Affairs and the Government Office for Legislation; two academic experts; the Vice Governor of the Bank of Slovenia, the Vice President of the Chamber of Commerce and Industry and the Slovenian Ambassador to the EU. The Negotiation Delegation is supported by the Negotiation Office in the Government Office for European Affairs. Accordingly, the Chief Negotiator is linked to this Office rather than to the Ministry of Foreign Affairs.

The members of the Negotiation Delegation coordinate the preparation of negotiation positions with the support of 31 Working Groups. The Negotiation Delegation agrees with the Working Groups on the position. There are no formalised decision rules in the Negotiation Delegation. Decisions are usually taken by consensus, disputes are referred to the Cabinet for decision.

2. 31 *Working Groups* have been established for each chapter of the negotiations. The Working Groups are headed by state secretaries of those Ministries most affected by the respective chapter. Other Ministries and the member of the Negotiation Delegation are also represented in the working group. The Working Groups formulate the negotiation positions and then agree with the core negotiation team on a position that is submitted to the Cabinet. In formulating the positions the

Working Groups also consult with independent academic experts, NGOs, interest groups and local self-governments.

3. The *Cabinet* adopts the position and submits it to Parliament for approval. Each individual position for a chapter of the *acquis* has to be submitted to, and approved by, Parliament. If the position is changed in the course of the negotiations, Parliament has to be asked for a new mandate. The positions are available to the public.¹⁵

4. An inter-ministerial committee at the level of state secretaries coordinates the most important pre-accession activities of Ministries.¹⁶

5. Formally, the *Minister of Foreign Affairs* conducts the negotiations. The Minister also represents Slovenia in the Association Council. Practically, responsibilities for European affairs and the accession negotiations have been transferred to the Government Office for European Affairs. The Ministry deals with all other aspects of foreign policy. A Government Office for Legislation monitors the compatibility of draft legislation with the *acquis communautaire*

6. The *Government Office for European Affairs* is headed by a Minister without Portfolio and consists of two Integration Divisions, a Foreign Aid Division and the Negotiation Office.¹⁷ Its personnel amounts to 90 persons, among them 35-40 translators. Initial plans to attach the Office to the Prime Minister's Office were abandoned in favour of establishing an independent quasi-ministerial body.

Integration Division I coordinates the preparation for the Internal Market of the EU and for the sectoral policies of the EU, and is responsible for the implementation of the Europe Agreement and the Accession Partnership. This includes monitoring the progress of legislation. The Division also participates in the 31 Working Groups assisting the Negotiation Delegation.

Integration Division II is concerned with the enlargement and reform of the EU, the CFSP and the JHA, prepares the negotiation position in cooperation with other state organs and NGO, provides legal and organisational support for the negotiation delegation. The translation division consists of 35 employees. The Foreign Aid Division coordinates the implementation of foreign aid. The Minister without Portfolio represents Slovenia in the Association Committee.

7. The Parliament has established committees for each ministerial portfolio and a *Commission for European Affairs* that participates in the parliamentary preparation

¹⁵ <http://www.sigov.si/ops/ang/pi/seznam.html>

¹⁶ OECD-SIGMA Public Management Profile Slovenia, at: <http://www.oecd.org/puma/sigmaweb/index.htm>.

¹⁷ Cf. <http://www.sigov.si/svez/>

of negotiation positions. The Senate does not participate in the creation of parliamentary mandates.

II. Cross-national Comparison

The task of preparing and conducting accession negotiations constitutes a major coordination problem for the Governments and public administrations of the candidate countries since the *acquis communautaire* represents a voluminous compilation of qualitatively new legal regulations and does not match the division of tasks established between line ministries and specialised state agencies. Competing policy objectives have to be balanced and special interests of powerful domestic actors within and outside Government have to be considered against differing expectations and pressures of the EU. From the country profiles in the first part of this report, a number of similarities and some interesting variances can be discerned, indicating how the advanced candidate countries are coping with these problems.¹⁸

To structure the cross-national comparison, an analytical distinction is made between the policy, political and procedural aspects of coordination.¹⁹ Policy coordination means ensuring that the strategic objectives of a Government are appropriately translated into negotiation positions and successfully represented vis-à-vis the European Commission and the EU member states in the accession negotiations. Political coordination is the task of selecting the strategic objectives and setting the political priorities of the Government for the negotiation process and communicating them to the domestic public and the EU. Process coordination shall be understood here as the management of the formulation of negotiation positions, facilitating the optimised participation of all relevant interests and actors at the most appropriate stage of the negotiation process.

Policy coordination

There seem to be two strategies of organising the *policy coordination* function for the preparation and conduct of negotiations: either entrust the Ministry of Foreign Affairs with this function - or create a special body not integrated into that Ministry. The Czech Republic, Estonia and Hungary have chosen the first strategy which implies that the Minister of Foreign Affairs or, in the Czech Republic, the Deputy Minister of Foreign Affairs leads the negotiation delegation. In these countries the Chief Negotiator, who is charged with the operative conduct of negotiations, is a high-ranking civil servant (or Deputy Minister) of the Ministry of Foreign Affairs. The leading role of the Ministry of Foreign Affairs appears to be the more usual pattern in the majority of the twelve applicant countries.²⁰ Poland and Slovenia have

¹⁸ Cf. also for an overview on the management of EU affairs in accession countries reflecting the situation of 1997: Verheijen, Tony: *The Management of EU Affairs in Candidate Member States: Inventory of the Current State of Affairs*, <http://www.oecd.org/puma/sigmaweb/index.htm> 1998.

¹⁹ Cf. Davis, Glyn (1997): *Executive Coordination Mechanisms*, in: Weller, Patrick/ Bakvis, Herman/ Rhodes, R.A.W. (1997): *The Hollow Crown. Countervailing Trends in Core Executives*, Houndsmill, Basingstoke: Macmillan, 126-147, for a similar distinction

²⁰ Verheijen 1998: 29.

chosen the second strategy, i.e. they decided to create a special office and role for their Chief Negotiator which ensures more influence for the Prime Minister and the Cabinet than for the Minister of Foreign Affairs. Prime ministerial powers are stronger in Poland than in Slovenia since the Polish Prime Minister appoints the Chief Negotiator and all the members of the Negotiation Delegation.

Since in both countries the Chief Negotiator is not linked to the Ministry of Foreign Affairs, a specific administrative body was required in order to provide support for the work of the Negotiation Delegation. The Polish and Slovenian Governments yet refrained from establishing a standard 'Ministry' for European Integration to institutionalise this function. Instead, they created an 'Office' for European Integration which is headed by the Committee of European Integration in Poland²¹ and by a Minister without Portfolio in Slovenia. The Polish Office has approx. 200 staff, more than twice as big as the Slovenian Office with its 90 staff. Both Offices not only provide administrative support to the Negotiation Delegations and coordinate the preparation of positions but are also responsible for coordinating and monitoring the implementation of the Europe Agreement, the Accession Partnership commitments, and for administering Phare and other foreign aid programmes.

In the other three countries the central administrative support bodies for the negotiation process are attached to the Ministries of Foreign Affairs (Czech Republic, Hungary) or to the State Chancellery (Estonia). While the ministerial affiliation of the supportive bodies in the Czech Republic and Hungary corresponds to their strategy of assigning an exposed role to the Ministry of Foreign Affairs, Estonia leans more toward Poland and Slovenia which have opted for a more influential role of the Prime Minister. The Czech, Estonian and Hungarian Departments for European Integration have 60, 10 and 100 employees, respectively. The Offices are smaller because they do not perform all the functions of their Polish and Slovenian equivalents. Only the Hungarian and Czech Departments coordinate and monitor the implementation of the Europe Agreement commitments. In Estonia this task is carried out by the Departments of EU Relations and Foreign Trade in the Ministry of Foreign Affairs. The Hungarian Government has assigned the control of Phare and other foreign aid programmes to a Minister without Portfolio attached to the Prime Minister's Office. In the Czech Republic and Estonia foreign assistance programmes are coordinated by the Ministries of Foreign Affairs.

All countries have established Negotiation Delegations whose size and composition ensures that the most important Ministries and state agencies are directly represented in the negotiation process. Their size ranges between 11 and 16 members, with the exception of Estonia where the heads of the 31 expert Working Groups are formally included into the Delegation. Only the Hungarian Chief Negotiator also acts as the Head of the Brussels Mission which indicates that the Hungarian Government has assigned particular importance to local networking in the EU capital. In Estonia, the Europe Agreement framework is linked to the negotiation process since its Chief Negotiator is also representing Estonia in the Association Committee. The Negotiation Delegations do not only negotiate in the operative sense of communicating their country's position to, and arguing with, the

²¹ This body resembles the arrangement in France where a permanent General Secretariat led by the Interministerial Committee for European Economic Cooperation (SGCI) is coordinating EU affairs. Cf.: Kaiser, Rolf (1996): Basic Institutional Options for National EU Coordination, SIGMA Working Paper, www.oecd.org/puma/sigmaweb/.

representatives of the European Commission and the EU member states. They also serve as consultative bodies for the formulation of negotiation positions and for strategic and tactical issues of the negotiation process. The extent to which the members of the Negotiation Delegations negotiate the wording of a position among each other varies between the countries. Estonia and Hungary appear to be those countries where the Negotiation Delegation most clearly serves to assist the Chief Negotiator (and the Minister of Foreign Affairs, respectively) in formulating a position. The Slovenian and Polish Delegations seem to be functioning more as forums where the wording of the position is discussed and agreed among the participants. This is also facilitated by the fact that both countries do not have special inter-ministerial committees dealing with EU issues on the sub-ministerial level.

Political coordination

A second strategic choice concerns the leading institution for the *political coordination* of the negotiation process. The Czech, Estonian and Polish Governments have decided to establish specialised Cabinet Committees for European Integration which are composed of Ministers. The Hungarian and Slovenian Governments refrained from establishing a special coordinating body at the level of Ministers. Both countries rely on the general Cabinet or on coordination bodies at the level of state secretaries in order to achieve political coordination.

The Cabinet Committees in the three former countries are chaired by the Prime Ministers (Estonia and Poland) or by the Minister of Foreign Affairs (Czech Republic) and consist of five to twelve members. In Poland, the Prime Minister, the Minister of Foreign Affairs and the Chief Negotiator form a separate Political Committee which discusses political priorities before they are submitted to the Committee of European Integration. This subcommittee structure resembles the “presidency” that heads the Czech Cabinet Committee and comprises the Deputy Prime Ministers and the Chief Negotiator. While none of the Cabinet Committees may take binding decisions in the name of the Cabinet, the Czech Committee for European Integration has perhaps the most far-reaching powers since it is not only the biggest in size but also takes preliminary decisions on the content of a negotiation position which are then approved or changed by the Cabinet. The Czech Cabinet Committee is also supported by a specific Working Committee for European Integration, consisting of the Deputy Ministers and leading civil servants from line Ministries and central state agencies. The Estonian Cabinet Committee is assisted by a Council of Senior Civil Servants that ensures inter-ministerial coordination at the working level but is not specialised on EU integration issues. This Council is supplemented by a Negotiation Task Force of six senior experts who coordinate the work of the comparatively large Negotiation Delegation. Since there is no inter-ministerial coordination body below the level of Ministers in Poland, its functions are performed partly by the Cabinet Committee, partly by the Negotiation Delegation.

The former Hungarian Government had operated a Cabinet Committee for European Integration; the new Government in 1998 dissolved this Committee and organised the cooperation among Ministers in a different Committee structure according to the broader policy areas of national security, economic affairs and home affairs. Political coordination is achieved by the entire Cabinet or by the inner

Cabinet. In addition, the Hungarian Government has an Inter-ministerial Committee for European Integration consisting of Deputy State Secretaries from all line Ministries and a weekly Conference of State Secretaries, an institution resembling the Estonian Council of Senior Civil Servants. Lacking a special coordination body both at the level of Ministers and senior civil servants, the Slovenian Government relies on its Negotiation Delegation or directly on the Cabinet as organisational devices to attain a coordination between competing political priorities and objectives.

Process coordination

A common element of *process coordination* is provided by the fact that the EU expected the accession countries to involve domestic experts in the screening of the *acquis communautaire* at the beginning of the negotiation process. For this purpose, all countries have established expert Working Groups according to the 31 individual chapters into which the *acquis communautaire* has been divided. The Groups are mostly led by a civil servant of the line Ministry or state agency which possesses the professional and legal competencies for the respective chapter. This lead institution usually requests other Ministries, state agencies and also civil society organisations (academic research institutions and interest associations) to participate in its Working Group.

The Estonian and the Hungarian Government have emphasised the integration of the expert Working Groups into the Negotiation Delegation. In Estonia, the Heads of the Working Groups are formal members of the Negotiation Delegation, and Hungary defines the Working Groups as “Expert Delegations” which have responsibilities for the operative management of negotiations, too. Only the Hungarian Government introduced separate screening mandates which were adopted by the Cabinet and guided the participation of the Expert Delegation in the screening procedure.

The Working Groups formulate the first draft of a negotiation position and usually submit it to the Negotiation Delegation for discussion. Only in the Czech Republic the positions are submitted to the Working Committee on European Integration. If the Delegation (Committee) agrees on the wording of a position, either the Minister of Foreign Affairs (Estonia, Hungary, Czech Republic), the Chief Negotiator (Poland) or the Minister heading the Government Office for European Affairs (Slovenia) submits the position to the Cabinet for a decision. In countries with a special Cabinet Committee (Czech Republic, Estonia, Poland) the position is first discussed in the Committee before it is formally decided by the entire Cabinet. Thus there are three or four levels where interests and concerns can be articulated in the process of formulating a negotiation position.

The EU integration departments of the Czech and Hungarian Ministries of Foreign Affairs, the Estonian State Chancellery or the Slovenian/ Polish Offices for European Integration are concerned with most tasks of process coordination. The heads of these bodies are participating in the Cabinet Committees dealing with EU integration. In countries with special inter-ministerial committees on the sub-ministerial level (Czech Republic and Hungary) the heads of the EU integration departments are chairing these committees. Whereas Estonia and Hungary have established a „tandem“ of the Chief Negotiator and a second senior civil servant

heading the department of EU integration, in the other three countries the Chief Negotiator is solely heading this body. Poland appears to be moving towards the tandem model with the recent distinction between the Chief Negotiator and the manager of the Office of European Integration.

After the Cabinets have decided a negotiation position, the Governments inform the Parliamentary Committees on European Integration on the content of the position. Thus, the parliamentary deputies are consulted and can articulate their opinions but they do not participate in the process of formulating and deciding positions. This is usually justified with the argument that the Parliament participates when ratifying the Accession Treaty. Slovenia is an exception from this practice in so far as the National Assembly approves each negotiation position adopted by the Government before it is submitted to the EU. According to the Slovenian experience hitherto, the parliamentary mandating procedure has not restricted the leeway of Government in the negotiations and has facilitated the responsibility-taking of parliamentary opposition parties. As a consequence, the content and wording of the Slovenian positions is fully published. In the Czech Republic, the negotiation positions are also published in their full wording, whereas the other three Governments treat the exact wording of the positions as confidential and provide only summaries of their contents to the Parliament and the general public.

Apart from the parliamentary consultation, Governments also consult with civil society organisations, such as business associations, trade unions and professional interest associations. Estonia, Hungary and Poland have set up special Councils for this purpose which are related to the Ministry of Foreign Affairs or, in Poland, to the Prime Minister. The Czech and Slovenian Governments use already existing structures such as, for example, the tripartite Council for Economic and Social Agreement, the Slovenian Senate and governmental committees involving civil society representatives. Slovenia is the only country where a civil society organisation (the Chamber of Commerce and Industry) is represented in the Negotiation Delegation. The consultation mechanisms have a twofold function: On the one hand, civil society organisations are informed about the ongoing negotiations and enabled to articulate their opinions and concerns. On the other hand, Governments are able to communicate their objectives and build coalitions into society. Extra-governmental academic expertise is made available in the expert Working Groups, only the Czech and Slovenian Governments involve academic experts into the Negotiation Delegations as well.

III. Negotiation positions

This section gives an overview on the negotiation positions of the five advanced accession countries for three chapters that contain the most crucial and politically sensible issues of the enlargement negotiations: Agriculture, the free movement of persons and the free movement of capital. To reduce the complexity and avoid the technicalities of the agriculture chapter, we have selected the position on the application of direct payments and the requirements the countries requested for milk, sugar, beef and cereals - four key products (product groups) of the Common Agricultural Market. For the chapter on the free movement of persons, we focus on the countries' position with respect to granting their citizens the freedom of movement. As regards the chapter on the free movement of capital, the positions on the acquisition of real estate by foreigners are described.

As the detailed overview in the table below shows, all five countries insist on the principle of the full adoption of the *acquis communautaire* upon accession for those regulations that yield benefits for them, i.e. the freedom of movement and the system of direct payments in the Common Agricultural Policy (CAP). The Slovenian position seems to be slightly less ambitious since it enumerates the agricultural products to be included into the direct payment system, but the listed products account for the bulk of the direct payments in the CAP. The five countries display significant differences with respect to the acquisition of real estate by foreign nationals and the market liberalisation/ regulation for agricultural products. Hungary and Poland take the most restrictive positions on the sale of real estate since they envisage an extended protection for agricultural land. The published negotiation positions of Slovenia and Estonia do not contain requests for transitional periods. Slovenia claims the right to react reciprocally on transition periods or derogations implemented by EU member states, reflecting its conflicts with the Italian Government on their mutual national minorities. In view of its difficult relationship with Russia, Estonia in its position refers to a Treaty provision allowing EU member states to preserve restrictions against third country nationals. The Czech request for a transitional period on real estate is less comprehensive since it is linked to a permanent foreign residence instead of citizenship and more specific with regard to the types of real estate other than agricultural land.

For the listed main agricultural products, all accession countries try to attain the highest possible quotas. The Czech position is perhaps the most undetermined since requests for transition periods are made contingent upon an alignment of EU and Czech price levels.

	Czech Republic	Estonia	Hungary	Poland	Slovenia
FREE MOVEMENT OF PERSONS					
freedom of movement	CR is ready to implement acquis by the date of accession	full implementation upon the date of accession	full implementation upon the date of accession	full implementation upon the date of accession	full implementation upon the date of accession
FREE MOVEMENT OF CAPITAL					
acquisition of real estate	EC nationals without permanent residence on CR territory shall be excluded for an (undetermined) transitional period from the acquisition of real estate which forms the agricultural land fund, of forests, secondary residence and plots for building residences	The date of accession shall be applicable as the date of the standstill clause that stipulates the preserving of restrictions towards third countries established in paragraph 1 of Article 57 Amsterdam Treaty	Foreign natural and legal persons shall be excluded for 10 years from the acquisition of agricultural land and natural conservation area and from the lease of more than 300 ha agricultural land or agricultural land (with a value higher than 6000 golden crowns); and the acquisition of other real estate by foreigners shall be restricted for 5 years	Foreigners shall be excluded for 5 years from the acquisition of real estate related to direct investment, and for 18 years from the acquisition of agrarian land, including recreational real estate and woodlands	SI reserves right to apply substantive reciprocity if EU member states acquire any rights in the form of transitional periods or derogations concerning the level of liberalisation of real estate as laid down in the acquis

	Czech Republic	Estonia	Hungary	Poland	Slovenia
AGRICULTURE					
direct payments	full adoption of the direct payment system from the date of accession; direct payments for growers of arable crops shall include total arable area of 1.9 m hectares	full incorporation into CAP from the moment of accession	full adoption of the direct payment system from the date of accession	full adoption of the direct payment system from the date of accession	direct payments shall be adopted for arable crops, beef, sheepmeat and goatmeat, hops and olive oil
milk	requested annual national quota of 3.1 m tonnes; transitional period if EU and CR price levels are not aligned before accession	no detailed information available	requested annual national quota of 2.8 m tonnes; quota shall be related to higher production before 1991; distribution of 2.8%-fat milk shall be permitted for five years after accession; global amount for additional payments shall be 7.3 m Euro in 2005, 14.6 m Euro in 2006 and 22 m Euro in 2007ff.	requested annual national quota of 11.27 m tonnes; transitional period for products not fulfilling EU standards	requested quota for milk and milk products shall be higher than the quota applicable to the current production level; no compulsory distribution of milk quotas to individual producers until 31/12/12; national provisions concerning fat content in drinking milk shall remain applicable until 31/12/05
sugar	requested production quota: 505000 tonnes	no detailed information available	requested production quota: 480000 tonnes	requested production quota: 1.866 m tonnes	requested quota for sugar shall be higher than the quota applicable to the current production level
beef	special beef premia (direct payments) for 305000 bulls and steers; transitional period if EU and CR price levels are not aligned before accession	transition period regarding the labelling of beef and beef products; no detailed information available	special beef premium for 245000 animals; slaughter premium for 480000 animals; global amount of 12 m Euro for additional payments	special beef premia for 2 m bulls and steers; transitional period for products not fulfilling EU standards	quota for premium rights in beef shall be higher than the quota applicable to the current production level
cereals	transitional period if EU and CR price levels are not aligned before accession	no detailed information available	national base area for area payments shall be 3.6 m hectares; for the production of durum wheat, the maximum guaranteed area shall be 15000 hectares and the limit shall be 50000 hectares	quota should be adjusted to real productivity; national base area for area payments shall be based on the period 1989-1991;	

Conclusion

The cross-national comparison has shown that the advanced candidate countries of Central and Eastern Europe have developed quite different institutional arrangements in response to the negotiation task posed by the EU. This diversity has emerged due to several causal factors whose explanation would require a much more comprehensive study of institutional evolution. Among these causes are the political composition of the Government, in particular the role of Eurosceptic groups and parties, the rules and styles of decision-making in central Government (e.g. prime-ministerial vs. collegiate Government), the national administrative traditions and legacies shaping the decision-making behaviour of high-level civil servants, and policy learning from other accession countries. While these causal factors shall not be dis-entangled and explored further in this report, their impact suggests the conclusion that the identical task of agreeing on the 31 negotiation chapters has not led to a homogenisation of accession-related institutions.

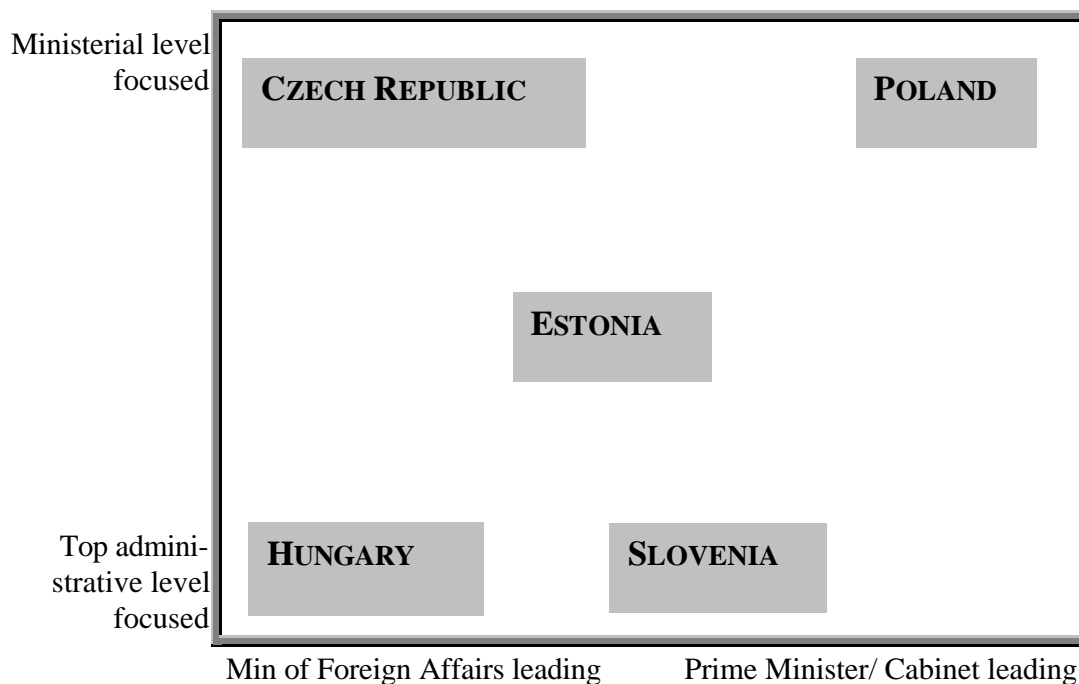
It is particularly interesting to note how strongly the countries vary in the extent to which Governments consider the preparation and conduct of negotiations a public issue. On the one hand, the Slovenian Government asks the Parliament for mandates on each chapter of the negotiations. On the other hand, the Hungarian and Polish Governments treated the negotiation positions as confidential until their submission - not only for the general public, but also for parliamentary deputies. The overview on the contents of the negotiation positions has shown that highly politicized issues like the sale of real estate to foreigners were translated into restrictive negotiation positions only in some countries.

The cross-national comparison was mainly focused on the formal structures the Governments have established in order to prepare and conduct accession negotiations, and did not attempt to identify underlying informal structures or power constellations. With this caveat in mind, one may distinguish four different coordination patterns based upon the two strategic choices the Governments were faced with. To achieve policy coordination they could entrust either the Ministry of Foreign Affairs with a leading role or create a new body closer to the Prime Minister or/and to other Members of the Cabinet. As concerns political coordination, Governments could create either a Cabinet Committee composed of the most relevant Ministers or rely on an inter-ministerial committee at the sub-ministerial (state secretary) level. The table below depicts the different national coordination patterns.

The reality of political, policy and procedural coordination is, of course, much more heterogenous and fluid than suggested by the table. It is particularly problematic to place Estonia in one of the cells since the Foreign-Ministry-led Negotiation Delegation is supported by an office belonging to the prime ministerial administration and the Cabinet Committee is linked to elaborate administrative coordination forms. This ambiguity indicates the inherent limits of an analytical approach that highlights formal institutional arrangements. Nevertheless, the tables offers a set of institutional solutions to the coordination problem and reveals some interesting insights. One can assume that the political character of EU-related decision-making increases from the lower left to the upper right cell in the table. The political agenda and cognitive map of the Prime Minister or the Cabinet link issues

of the accession negotiations to more general concerns and interests of domestic politics than in the case of a preparation process dominated by the foreign policy bureaucracy and their priorities.

Matrix of coordination patterns



A highly politicised coordination of the accession negotiations may guarantee a broad-based and strong domestic consensus supporting claims for transitional periods or the willingness to incur substantial costs entailed by the implementation of the acquis. However, politicised coordination may fail and, as a consequence, narrow the support base and political leeway of Governments. A coordination relying more on the foreign policy bureaucracy may prove more stable and compatible with the EU-level bureaucracy. Yet it confronts the Foreign Ministry officials with the risk of an insulation of the process within Government and society and with the difficulty of controlling sectoral interests.²² To put it differently, there is no optimal institutional solution to the coordination problems posed by the accession negotiations. Instead, the experiences of advanced accession countries suggest that there are multiple trade-offs the designers of institutional arrangements for the negotiation process should take into account.

²² Kaiser 1995.