



Corruption Risks and the Management of the Ministerial Bureaucracy in Poland



SPRAWNE PAŃSTWO
PROGRAM *ERNST & YOUNG*

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Executive Summary

1. Over the last few years, corruption has been at the centre of public debate in Poland. The political and media attention reflects a deterioration in Poland's score in the Corruption Perceptions Index (CPI), published annually by Transparency International, and a number of high-profile corruption scandals that have shaken the political system and some of the political elite.
2. The PiS-led Polish government (2005-07) initiated a major anti-corruption programme, which included the establishment of an Anti Corruption Office with far-reaching powers. Corruption, nevertheless, remains a serious problem, and it is debatable whether the anti-corruption campaign has had any significant positive effect.
3. When looking more broadly, research on corruption has debated both the definitions and determinants of corruption; however, there is no agreement on how best to define corruption, and the causes of corruption remain in contention.
4. Against this background, this research project has concentrated specifically on high-level corruption in one area of the state apparatus, i.e., the ministerial bureaucracy. In particular, the research examines corruption risks that are built into the management of the ministerial bureaucracy. This approach reflects the fact that the quality of bureaucracy is often seen as a key determinant of corruption.
5. Our research examines corruption risks across two dimensions of the ministerial bureaucracy: first, the management of the recruitment and selection of officials (especially to senior positions); second, the management of the policymaking process (especially the preparation of laws and regulations).
6. Conceptually, our research identifies several corruption 'danger zones' in the ministerial bureaucracy. The concept of such danger zones refers to the mechanisms that create conditions for corruption across our two dimensions of the ministerial bureaucracy management. In contrast to much corruption literature, this allows us to identify corruption risks at various points in the management process. The segmentation of the management process also allows us to make more confident inferences with respect to the relationship between the ministerial bureaucracy management and corruption risks.

7. In relation to personnel management, corruption risks have increased since 2001, and especially since 2006.

- We demonstrate that the personalisation of senior personnel policy (our first danger zone where corruption risks can emerge) has increased in recent years; especially since the civil service reform in 2006. This development is reflected in the growing depth and degree of politicisation of the Polish ministerial bureaucracy.
- The presence of multiple dependencies for ministerial officials (our second danger zone) has been a feature of the Polish ministerial bureaucracy ever since the transition to democracy. Recent years have, however, witnessed the growing dependence, of ministerial officials on external sources of political influence, in exchange for (at least nominal) dependence on the politically independent Head of the Civil Service Office that was abolished in 2006.
- We also demonstrate that the 2006 civil service reform, in particular, has weakened the screening capacity of the personnel system (our third danger zone), as a consequence of the watering-down of the examination system, and the role of competition, among officials, for access to the senior ranks of the ministerial bureaucracy.
- Our research shows that incentives for ministerial officials to develop long-term reputations for honesty and competence (our fourth danger zone) have been reduced through the more rapid turnover in the senior ranks and a growing number of senior appointees who have no civil service status and, therefore, no realistic prospect of pursuing a long-term career in the ministerial bureaucracy.

Developments since 2001, and in particular since the 2006 civil service reform, therefore, receive a critical evaluation from our perspective of assessing corruption risks in the personnel management system.

8. In relation to managing the policymaking process, corruption risks have largely remained unchanged and at a relatively high level, when one compares the current situation with the period between the late 1990s and 2006. This finding was unexpected, given that recent governments have pursued a number of reform initiatives that have had the potential to reduce the risk of corruption at the ministerial bureaucracy level; nevertheless, our research has found that changes in the formal rules that underpin the policymaking process (such as the introduction of new management systems, lobbying rules and rules for regulatory impact assessments) are often not applied, or are applied very inconsistently across ministries, and even within individual ministries. More specifically:

- We found that even though officials usually have formalised policymaking responsibilities, senior officials feel that they have a large degree of autonomy, and therefore, discretion over the definition of their roles (our first danger zone in which corruption risks may emerge during the management of the policymaking process).
- We found that senior officials are subject to demands from competing centres of coordination inside government, as well as the need to take into account the imperatives of coalition politics and (to a lesser extent) constitutional quasi- presidentialism. We found that government fragmentation creates multiple dependencies (our second danger zone along this dimension of management) for officials in the ministerial policymaking process.
- With respect to the control and coordination capacity inside ministries (our third danger zone), our research has found that internal management systems are poorly developed, with control usually depending on the approach of individual officials; in particular, the lack of mechanisms for effective horizontal coordination and the lack of consolidation within the ministries creates the conditions for internal fragmentation (primarily along deputy minister lines).
- Our research has found that external monitoring procedures, which follow the logic of 'fire-alarms,' remain under-developed. Even if senior officials have become much more sensitive to the corruption dangers that can result from lobbying, there still remains considerable potential for capture as opposed to external monitoring by means of interest group competition (our fourth danger zone).
- We found that recent governments have begun to establish systems to improve access to, and use of, expertise in the policymaking process (our fifth danger zone). Again, however, especially along this dimension of analysis, our research has found that the application of such systems has often remained superficial and ineffective in the actual working patterns and outcomes of the policymaking process.

9. Our research further examines the causal relationship between the two dimensions of the ministerial bureaucracy management in Poland. We found that the lack of policymaking process institutionalization, and the high degree of inconsistency, is to a significant extent traceable to the personnel strategy of recent governments.

In particular, the politicisation of the senior personnel policy, which is evident along all four personnel management danger zones, has prevented the institutionalisation of the policymaking process inside the

ministries and has consequently reduced the mechanisms that promote corruption risks.

10. Finally, our research examines the extent to which the corruption record in Poland can be traced back to patterns of the ministerial bureaucracy management. In particular, we examine the causal link, from personnel management first, to policymaking process management, and subsequently to high-level corruption in the ministerial bureaucracy. We are acutely conscious of the fact that it is very difficult to test this relationship and that there are many other factors that may explain the poor corruption record in Poland. Our research has, however, demonstrated the following:

- there is a striking correlation between deteriorating governance indicators (across the two dimensions of the ministerial bureaucracy) and deteriorating corruption records;
- this correlation is further supported by the relatively close causal proximity in the causal chains from selection of people to policymaking, and from law-making to high-level corruption and state corruption.
- Our research suggests some reasons for the lack of success of the government's anti-corruption strategy. Efforts to improve the policymaking process along several of our danger zones, as well as to reduce corruption risks more generally through anti-corruption measures, have been significantly undermined by the personnel strategy of recent governments. Assuming that the PiS-led governments had the intention ambition to fight corruption, our research reveals the unintended consequences of their personnel strategy.

Introduction¹

This report covers the politicisation of the ministerial bureaucracy in Poland, and the risk of corruption. Corruption has gained political salience over the last few years, which is reflected in increased media coverage, the public perception of widespread public sector corruption, and the revelation of major scandals that have implicated sections of the political elite. Corruption was at the centre of the political debates surrounding the 2005 national elections. The centre-right party, Law and Justice (PiS), vigorously campaigned on the issue of fighting corruption and promised to root it out from the Polish public sector. An important anti-corruption measure was the large-scale replacing of personnel in the ministerial bureaucracy. Jarosław Kaczyński, for instance, argued in a speech at the Batory Foundation in the spring of 2005, that old networks created during the communist regime had been re-created. If elected to government, his party would clean the government apparatus in order to break the existing networks between the bureaucracy and private interests². The 'people' in the government bureaucracy were, therefore, presented as one of the main causes of corruption in Poland. This report examines the effectiveness of such an approach in the fight against corruption in the ministerial bureaucracy, by concentrating particularly on the consequences that the personnel policy in the ministerial bureaucracy has for the management of the policymaking process, and how this has contributed to increasing or reducing corruption risks.

The report contains five parts. Part One discusses issues surrounding the definition of corruption, and Part Two discusses corruption determinants and develops a framework for analysing those corruption risks that are inherent in the ministerial bureaucracy management. It closes with an outline of our methodological approach. Parts Three to Five form the core of the empirical analysis. Part Three examines the recent corruption record in Poland, Part Four examines corruption risks in personnel management, and Part Five examines the types of corruption risk that are built into policymaking process management, as well as the extent to which personnel management patterns have shaped the patterns of ministerial policymaking management. The report's conclusion examines the impact of the ministerial bureaucracy management on the recent corruption record in Poland.

1. What do we understand by corruption?

What is corruption?

Corruption is not easy to define. There is considerable literature, stretching back over several decades, which seeks to identify the core characteristics of the concept; however, as yet, there is no universally agreed upon definition. The most commonly cited definition in recent years has been that developed by Transparency International: corruption is 'the misuse of entrusted power for private gain', further categorised as either 'according to the rule' or 'against the rule' variants (TI 2007). The former refers to situations in which, for instance, facilitation payments ('speed money') are given to a public official in order to secure preferential treatment in an area where the official is legally entitled to act; the latter involve bribes paid to secure services that the official is not entitled to provide. Corruption, however, involves much more than simply securing private profit through the breaking of rules. In reality, it is probably fruitless to try to formulate one generic catch-all definition of corruption that would accurately reflect the complexity of the concept in such a way that it can inform research into why it takes place and how to combat it.

Types of corruption

An important distinction in research on corruption concerns the difference between low-level corruption and high-level corruption. Low-level corruption, which is often labelled bureaucratic corruption or petty corruption, refers to corruption by state officials in their interaction with the public. For instance, we talk about petty corruption when traffic police or doctors accept bribes in the day-to-day performance of their duties. Low-level corruption, which can be particularly widespread and hugely damaging to the functioning of a state, is, however, of limited relevance to our research

High-level corruption

By contrast, high-level corruption refers to corrupt acts performed by politicians and other top state officials. High-level corruption is sometimes labelled as 'grand corruption' or 'political corruption,' although this form of corruption is not limited to political office-holders, but may also concern top officials in (at least nominally) administrative positions. For the purpose of this report, our research has focused on high-level corruption. In its most damaging form, high-level corruption refers to the purchase of laws and regulations, due to the fact that senior public officials are in a position to influence their formulation and adoption, which can subsequently work in favour of specific client groups. This form of high-level corruption has also been labelled 'state capture' (Hellman et al. 2003) in order to indicate that the law-making process is biased and that the regulatory output tends to work to the advantage of particular groups of 'captor.'

A key point is that 'state capture,' as a form of high-level corruption, does not automatically entail the direct exchange of money between politicians or senior officials, on the one hand, and some client firm or organisation, on the other: Corrupt transactions can also be more indirect. For instance, corrupt client actors can donate funds to political parties, which can subsequently be used for the financing of electoral campaigns (as has happened in many established democracies). Benefits may also be handed out at some future stage when politicians or top officials are given jobs or other rewards for loyalty and favourable behaviour in the past, or even more indirectly, when these benefits are handed out to third parties at a later point in time. Corruption is, therefore, not just about paying bribes.

There is some debate over whether corruption necessarily entails illegal activity. It could be argued that the most sinister forms of corruption in a democracy are those that 'betray the democratic transcript' by undermining accountability mechanisms, i.e., by failing to keep citizens fully informed, or by not operating in a transparent manner. For instance, a privatisation process may take place formally, in accordance with prevailing legal requirements, but if the valuation of the state assets being sold is deliberately kept low without the public being informed thereof (perhaps to ensure more bids), then this could also be seen as a form of corruption. This means that corruption is sometimes hard to distinguish from other, legitimate, political activities, especially in the arena of winning votes or securing support.

Rent-seeking and pork-barrel politics, for instance, are forms of behaviour that, to some, appear corrupt; however, they do not per se necessarily entail corruption. The term pork-barrel politics (Ferejohn 1974), was originally coined for the US context and refers to the attempt by politicians to channel public resources to their constituencies. Pork-barrel politics may be criticised on the basis of economic efficiency arguments; however, as long as this form of biased distribution of public resources takes place within a formal legal framework and is subject to public debate and scrutiny, it can hardly be considered corrupt.

Corruption is, therefore, a difficult concept to pin down. It does not always imply formal breaches of rules (although it usually does), and interpretations of corruption are also influenced by public reactions to different forms of behaviour. There is, therefore, an inescapably normative dimension to the concept: that which is deemed acceptable in one context, may not be in another.

While our research admittedly concentrates on just one aspect of corruption, state capture and high-level corruption are of critical

What do we understand by corruption?

importance, since they can have destructive consequences for the political system, the economy and society as a whole (Rose-Ackerman 2006a). More fundamentally, high-level corruption effectively equates to the 'privatisation of the state,' in the sense that some members of the political and senior administrative class use the political system as a mechanism for ensuring their private gain at the expense of the public. Furthermore, high-level corruption can also serve as an example of dishonesty and cheating for all other members of the community.

2. What causes corruption and under what conditions do corruption risks emerge in the management of the ministerial bureaucracy?

Not only is it difficult to define corruption, but there is also considerable debate concerning its causes. Research has identified a large number of factors that can lead to corruption; ranging from issues such as religion, the legacy of the past and the geographical position of a country, to economic and political factors such as the level of economic development, the size of the public sector, the type of political regime and the different types of political institution, as well as the quality of bureaucracy, which is at the centre of this research (for recent overviews, see Rose-Ackerman 2006b, Lambsdorff 2007).

Most of these alleged determinants of corruption are contested. Firstly, it can be unclear whether they cause corruption or whether they are consequences of corruption (Lambsdorff 2006). For example, a low level of economic development has long been argued to generate higher levels of corruption (Huntington 1968). Yet, international organizations also identify corruption as one of the main obstacles to economic development. Secondly, there is often a discrepancy between conventional wisdom and the findings of research into corruption. For instance, low public sector wages are commonly associated with higher levels of corruption, but research has not generally found a significant relationship between the two variables (Treisman 2000).

Thirdly, research into the causes of corruption, especially the impact of different 'patterns of democracy' (Lijphart 1999), has produced contradictory results. Kunicova (2006), for example, finds that presidential style systems of government, combined with PR electoral systems and federalism, are associated with the highest levels of corruption; however, academic debate and international organizations, such as the World Bank, tend to praise decentralization of the state apparatus as a means to combat and reduce corruption (Klitgaard 1988).

Fourthly, the dominant approach to analysing the causes of corruption tends to test correlations between systemic, economic and/or political input variables, on the one hand, and indices that rank perceptions of corruption, on the other. These approaches develop causal mechanisms that connect factors, such as the level of state decentralization, with

Determinants
of corruption

Causes of corruption
are contested

What causes corruption and under what conditions do corruption risks emerge in the management of the ministerial bureaucracy?

Our focus

levels of corruption; however, they rarely examine the causal mechanisms themselves, and they do not investigate whether or not the conditions for the emergence of different corruption mechanisms are present.

Given the nature of corruption, it is arguably very difficult to investigate causal mechanisms by means of tracing individual corrupt acts back to the presence or absence of institutional arrangements, the wide variety of actors, and individual incentives and identities. In order to tackle this problem, our research concentrated on identifying a variety of corruption mechanisms derived from the literature. Subsequently, it investigated empirically the extent to which the conditions for the emergence of different corruption mechanisms are present, in order to draw conclusions about the vulnerability of a given setting to corrupt activities. Our approach can, therefore, be distinguished in four ways from conventional research on the causes of corruption.

2.1. The features of our approach

Managing the ministerial
bureaucracy

Firstly, our research concentrates on corruption risks in one area: the ministerial bureaucracy. We did not examine the extent to which corruption risks may be the result of the numerous other drivers commonly identified in the literature. Secondly, our research distinguishes the emergence of corruption risks across two dimensions of the process for managing the ministerial bureaucracy: (1) recruiting and selecting ministerial bureaucrats, especially, senior officials; (2) managing the policymaking process; in particular, the preparation of laws and regulations, which reflects our interest in high-level corruption and state capture. The distinction between these two dimensions of analysis acknowledges the common assumption used in research on both corruption and public administration, that the relationship between politicians and bureaucrats can be depicted as a principal-agent relationship (Andvig/Fjeldstad 2001, Klitgaard 1988). Admittedly, there are many problems with the application of the principal-agent framework to politics in general; nevertheless, the principal-agent model provides a useful framework for structuring the analysis and deriving hypotheses and mechanisms for investigation.

Principal-agent model

In corruption research, the principal [P]'s problem is to select an agent [A] who will not enter into a corrupt exchange with a client [C]. The principal-agent framework further assumes that there is a natural conflict of interest between the principal and the agent, and that the agent has an information advantage vis-à-vis the principal. If it turns out to be beneficial, the agent may use superior information and enter into a corrupt exchange with the client; therefore, the principal's problem is twofold. He first needs to select an agent who is honest and

promises not to enter into a corrupt relationship with any third party. In organizational economics, this problem is usually labelled 'adverse selection.' The principal then needs to devise a strategy, which, after hiring, increases the agent's incentive to behave honestly, and allows the principal to observe the actions of the agent. This problem is commonly referred to as 'moral hazard.' Our approach, therefore, differs from conventional corruption research, in that it unpacks the variable 'bureaucracy' across two dimensions that correspond to the two problems that politician principals have to address vis-à-vis their bureaucratic agents.

Given this background, the third element in our approach is to identify a variety of mechanisms from literature on the causes of corruption, and to examine their relevance to the ministerial bureaucracy. In contrast to much of the literature, we have therefore, distributed the ministerial bureaucracy variable across the two dimensions of the management process and we then unpacked each level across a variety of corruption mechanisms. These mechanisms are equivalent to what we call 'corruption danger zones.' This approach allows us to shed light on the ministerial bureaucracy from different perspectives and, therefore, to perform a far more comprehensive vulnerability analysis.

Fourthly, our approach goes beyond simply checking the ministerial bureaucracy against danger zones (or mechanisms) of corruption, since it explores the causal relationship between the two dimensions of managing the ministerial bureaucracy, and then between those dimensions and the actual record of high-level corruption. As corruption cannot be empirically researched like other public policies, we cannot achieve the standards for causal inference that are assumed by process tracing techniques (George/Bennett 2005). We are, however, able to reach a high level of causal plausibility through our approach of unpacking the causal chain that runs from the recruitment and selection of personnel, via the management of the policymaking process, through to high-level corruption in the ministerial bureaucracy.

2.2. Corruption risks built into personnel management

(1) The first corruption danger zone refers to the presence of conditions for personal versus impersonal exchange relationships. One strand in the literature on corruption and on political patronage argues that PR electoral systems provide opportunities for the emergence of personalized networks, transactions and exchange relations, which in turn provide conditions for corruption (Golden 2003, Chang/Golden 2005). The role of personal exchange relationships is also raised in arguments that trace corruption to low levels of development: In more developed societies, people are usually better educated, there

Mechanisms that lead
to corruption

Personalisation

What causes corruption and under what conditions do corruption risks emerge in the management of the ministerial bureaucracy?

is a greater role for impersonal, formal rules (as assumed by Weber's rationalization thesis) and markets, thus allowing for more impersonal transactions.

In relation to the ministerial bureaucracy management, where the recruitment and selection of ministerial officials is more impersonal, there should be fewer corruption risks. In order to examine this argument, we investigated the extent to which the appointment of ministerial officials was made on the basis of political criteria. In particular, we investigated how far personnel turnover in the ministerial bureaucracy can be traced back to political intervention, and how far down the ministerial hierarchy political officeholders have intervened in the recruitment and selection of officials. The depth and degree of personnel politicization is arguably not the same as the personalization of personnel policy; nevertheless, it is a useful proxy measure, in that the selection of ministerial officials by ministers or other politicians inevitably includes some kind of dependence on individuals rather than the ability to base the legitimacy of one's appointment on an impersonal, rules-based recruitment and selection process, as would be the norm in a 'de-politicised' personnel system.

Multiple dependencies

(2) Secondly, both the corruption literature and the principal-agent literature on executive politics emphasise the dangers that arise from mutual dependencies or multiple principals (Klitgaard 1988). The 'multiple principals' argument assumes that the potential for agency losses increases where an agent has two principals who do not agree. Consequently, the agent can exploit the discretion to his own benefit, which equates to the creation of corruption risks. Similarly, the mutual dependency argument suggests that officials with links to more than one political principal, and especially with direct and close contacts with outside interests and client groups, may be subjected to pressure and improper influence in the policymaking process. For our research, this means that the dependence of ministerial officials on third parties creates conditions for the emergence of corruption risks. The dependence on others can be identified by examining the career pathways of officials; in particular, as to whether they have previously had close relationships with different types of client group. Moreover, the dependence of officials can be traced by examining the actual personnel appointments process: in particular, whether the minister, or some independent civil service agency, was responsible for the appointment of officials, or whether they owe their appointment to the intervention of party leaders, or third ministers, etc. In the latter case, it can be assumed that the intervention of outsiders diverts the officials' sense of accountability away from the minister principal, in as much as

it creates corruption risks owing to the emergence of 'multi-principal' dependencies.

(3) Thirdly, one of the most obvious corruption danger zones concerns the extent to which the recruitment system screening mechanisms are able to detect potentially dishonest officials and deter them from applying in the first place. The role of screening mechanisms is also at the centre of research conducted by Evans and Rauch (1999), who found that the presence of merit recruitment systems positively correlated to lower levels of corruption. In addition, it can be argued that formal examination and qualification procedures help raise the competence levels of officials. This in turn can be expected to have a positive influence on the quality of public sector regulation (Tanzi 1998).

An additional factor associated with the screening capacity of the recruitment system concerns the positive effect of competition. In relation to elections, it is argued that competition between political parties generates an incentive for them to monitor each other, so that corrupt parties will subsequently be punished at the polls. For our research, the screening capacity of the recruitment system, therefore, assumes an important role in the prevention of corruption. This can be identified by investigating the professional standards and procedures needed to gain access to jobs in the ministerial bureaucracy, the content and level of the examination system and the extent to which appointments are subject to effective competition.

(4) The fourth corruption danger zone concerns the incentive for officials to develop an honest reputation. This logic derives from the argument that presidential systems, especially when combined with term limits, are more prone to corruption than parliamentary systems, because the impossibility of re-election creates the mentality of 'I don't care what comes after the end of my term' (Kunicova 2006). The shorter term of office for incumbents, therefore, reduces the incentive to develop a reputation for honesty and competence, which could pay off at later stages of their careers.

For the ministerial bureaucracy management, this logic suggests that permanent tenure provides the incentive for officials to develop a reputation for honesty and competence. By contrast, short terms of office, uncertainty, and the lack of safety nets, can be expected to raise corruption risks. At the level of empirical analysis, this mechanism can be assessed through the length of time that officials spend in office and the type of employment that they secure afterwards.

Screening capacity

Time horizons

Preventing and detecting corruption

2.3. Corruption risks built into the management of the policymaking process

Common sense suggests that ministers should largely solve the risk of corruption if they can successfully recruit honest officials; however, it is not only likely that, in practice, at least some dishonest officials will have slipped through the recruitment and screening process, but more importantly from a theoretical point of view, officials may change their views and preferences after they are recruited, leading to so-called agency losses after a certain period of time (Hammond/Hill 1993). Research on corruption has, therefore, directed much attention to additional mechanisms that can help to deter and detect corruption by public officials in post. The most common devices include rewards (see above), penalties for corrupt behaviour, and a range of monitoring devices such as audit institutions, police investigations, anti-corruption offices and parliamentary commissions.

Limits of ex post monitoring

These monitoring institutions work after the fact, i.e., after the damage from corruption has already occurred. It is true that most economic analyses recognize that penalties and monitoring devices enter as a cost in public officials' calculations when considering corrupt activities. Yet, the identification of corruption is not only costly in practical terms (and thus unlikely to detect all corrupt acts), but more importantly, it also carries costs for politicians themselves, because the identification of corruption within their areas of responsibility is very rarely in their interests (McNollgast 1987). It may be very difficult for ministers to deflect blame after corruption has been identified, especially in parliamentary systems where ministers are responsible to parliament and where there is no arm's length relationship, as in the US separated powers system, (cf. Hood 2002)³. In fact, the incentive for ministers to cover up corruption increases even further if political appointees in their ministry are involved, as these officials are personally associated with the minister. Anti-corruption institutions are, therefore, often a double-edged sword, which, especially when they are not politically independent, are effectively used more as tools for the blackmailing of political enemies rather than for the actual deterrence and detection of corruption.

Need for ex ante steering

We do not argue that monitoring instruments for containing corruption are irrelevant. We do, however, suggest that the emphasis on after-the-fact oversight and control mechanisms diverts attention from mechanisms that could more constructively prevent corruption emerging in the first place. In contrast to much of the corruption literature, we followed the lead of the comparative public administration literature and concentrated on the role of institutional devices that seek

What causes corruption and under what conditions do corruption risks emerge in the management of the ministerial bureaucracy?

to shape the behaviour of ministerial bureaucrats in the policymaking process and, therefore, reduce the emergence of moral hazard problems. In the US literature on executive politics, this process is referred to as 'stacking the deck,' in the sense of politicians adopting administrative procedures that largely pre-determine the steps, sequences and content of bureaucratic work.

In parliamentary systems, by contrast, it is more suitable to utilise some form of 'steering' or 'action planning' (Mintzberg 1983) to set the schedule for law-making as a complex problem-solving process within ministerial boundaries. Ministers can, therefore, allocate and delegate tasks to the ministerial bureaucracy and establish institutional devices that structure the process of collecting and assessing information in the policymaking process, the interaction with outside interests and client groups, and the internal control, coordination and communication of policy. Here, we distinguish the following five corruption danger zones in the ministerial policymaking process.

(1) Corruption research argues that discretion in the hands of public officials is a necessary condition for corrupt exchanges. Both the literature on corruption, and in the area of comparative public administration, suggest that the formalization and specification of officials' responsibilities is crucial in order to reduce bureaucratic discretion. Conversely, when officials' responsibilities are vaguely defined and largely informal, they have scope for interpretation and discretion, which in turn leads to the emergence of corruption risks through exposure to improper influence and state capture. In our research, we have assessed this corruption mechanism by investigating formalisation in the roles and responsibilities of officials in the policymaking process, and examining the extent to which officials perceive themselves to have autonomy.

(2) As with personnel management, a major source of agency discretion is the presence of multiple principals and mutual dependencies, as officials may be able to exploit disagreements among many would-be principals. In managing the policymaking process, dependency on others arises primarily through coordinating policies with other ministries and central agencies such as the Prime Minister's Office and the Finance Ministry, as well as other political institutions, such as the Presidency, the legislature and political parties. We have, therefore, evaluated the potential for discretion by investigating how far officials need to coordinate with, and are exposed to demands from, other political and administrative institutions in the policymaking process.

Formalisation of responsibilities

Multiple principals

Internal management
and control systems

(3) The third danger zone concerns the internal coordination capacity to ensure control and integration of the policymaking process within the boundaries of individual ministries. Both principal-agent literature and corruption literature are virtually silent on the internal ministerial control of the policymaking process. Research conducted into core executive coordination suggests, however, that governments generally suffer from problems of departmentalism, fragmentation and lack of coherent policies, unless mechanisms are in place to coordinate and 'join-up' policymaking (Dimitrov et al 2006, Pollitt 2003, Hayward/Wright 2002).

Accordingly, ministers, and other senior officials with staff responsibilities, need to devise strategies to communicate their policy objectives, both specific and broad, and to follow up and monitor the activities of their departments. If no such mechanisms exist, ministerial policymaking tends towards fragmentation, loss of control and the formation of fiefdoms, which create risks for corruption; especially capture and favouritism in the law-making process. We evaluated this risk by investigating the vertical and horizontal mechanisms of coordination and control within the ministries. In particular, we examined the ways in which ministers, and senior and middle-ranking officials were subject to control and guidance from above, as well as the strategies they applied to monitor and steer the activities of their own staff. We also examined those mechanisms that were used for the horizontal integration of the policymaking process in the ministries.

Fire-alarm systems

(4) The principal-agent literature emphasises the use of external monitoring and control sources in the policymaking process; however, politicians find it costly to perform ex post facto 'police-patrol' oversight (see the discussion above), so they prefer instead to establish 'fire-alarm' systems, whereby interested groups raise their voices when the ministerial bureaucracy develops policies that are in conflict with the interests of the ministry (McCubbins/Schwartz 1984). Fire-alarm systems also work much like a competition that leads to the mutual monitoring of client groups, the ministerial bureaucracy and the ministry's political leadership. Furthermore, they take into account the view held widely in comparative public administration and democratisation research, that an active civil society can be an effective check on the state apparatus, and that decentralisation facilitates monitoring by citizen groups.

The reliance on interest-group fire-alarm systems is not problem-free, in that it can also create conditions for rent-seeking or other corrupt exchanges between client groups and ministerial officials.

What causes corruption and under what conditions do corruption risks emerge in the management of the ministerial bureaucracy?

Information
management

Such systems can, therefore, be considered effective only if they are embedded in a framework of public participation and consultation that establishes a level playing field for all participants. In our research, we evaluated this mechanism by first examining the ways ministerial officials relate to outside interests and the extent to which these relations are formally regulated, and then examining the approach they take to transparency in policymaking.

(5) Finally, comparative public policy literature has directed renewed attention to information, innovation, learning and quality in policymaking and regulation (Radaelli/De Francesco 2007, Rose 2005). Such research does not directly address corruption risks in the ministerial bureaucracy, but instead draws attention to information access and processing capabilities. The logic is that lack of information can lead to bad regulation, which, as outlined above, increases corruption risks. It also takes into account the possibility that politicians may deliberately guide ministerial officials in the direction of particular types of information in order to steer the policymaking process in the direction they desire (cf. McNollgast 1989). The main risks, therefore, emerge when the use of information is unregulated and spontaneous, which provides opportunities for its discretionary and/or incompetent use.

We evaluated this corruption danger zone by investigating the sources of expertise that ministerial officials could access and the information and quality management systems they used in the preparation of policy proposals. A central aspect concerned the use of regulatory impact assessments, which have been promoted by the OECD and European Commission in order to enhance the quality of policymaking and regulation. While these instruments are not without problems, and are potentially rather complicated to apply, we assume here that the active application of regulatory impact assessments can reduce the emergence of corruption risks in the policymaking process.

2.4. The relationship between the ministerial bureaucracy management and actual corruption

In accordance with the fourth element of our approach, we can expect that management of personnel and management of the policymaking process are related. The principal-agent framework (outlined above) implies that personnel selection precedes the management of the agents' work, so we can expect the personnel strategy to affect patterns of managing the policymaking process.

While it is clear that the relationship between both dimensions of management is complex, the distinction between different corruption

danger zones provides a starting point for investigating the causal link between personnel management and policymaking. For instance, we can hypothesise that the increasing personalisation of personnel management undermines the prospects of formalising officials' roles and thereby circumscribes the autonomy they possess. Similarly, we can hypothesise that scaling down the screening system reduces the prospects of successfully applying regulatory impact assessments, because officials may simply lack the skills to do so. Our approach, therefore, allows us to hypothesise on the impact that each dimension of personnel management has on each dimension of the policymaking process. This generates 20 combinations that can be used to develop hypotheses for empirical investigation.

Uncertain causal relationships

It is more difficult, however, to conduct research into the final step in the causal chain, i.e., from personnel management via policymaking to actual high-level corruption, because it is virtually impossible empirically to explore actual acts of corruption (beyond the study of court rulings and commission investigations, which often represent only the tip of the iceberg). The focus on state capture and the improper influencing of the law-making process in the ministerial bureaucracy suggests, nevertheless, that the proximity between policymaking process management, as our input variable, and state capture, as our outcome variable, is very close. We can assume, therefore, that corruption risks at this dimension of the management process also represent a likely cause of actual high-level corruption. Before turning to the Polish case, we have outlined below, our empirical research strategy:

2.5. Research strategy

PiS-led governments in comparative perspective

Our research primarily covers the period from 1997 until the summer of 2007 - when the centre-right coalition collapsed and new elections were announced. Our discussion, however, concentrates on the period from 2005 to 2007 - when the Law and Justice Party formed first a minority government and then a majority coalition with the Self-Defence and the League of Polish Families parties. This allows us to identify recent trends and corruption risks inherent in the management of the ministerial bureaucracy. Our research, therefore, relies on a cross-time analysis of one country.

We note that, in order to analyse trends, it is both possible and helpful to distinguish more than two broad periods. As we will see, in particular, the period from 2001 until 2005, when two centre-left coalitions formed the government, and the period of the centre-right government from 1997 until 2001, are often usefully divided into two periods rather

than one broad period. Moreover, we note that considerable cross-sectoral differences arose during the period under study. We also refer to cross-ministerial differences; however, this is to illustrate the complexity of the issue rather than for systematic within-unit analysis.

Our research relies on qualitative research techniques. In particular, the research relies on personal interviews with senior officials and ministers, which provides the best instrument for identifying what officials actually do and how they perceive their roles. Although biases are inevitable (particularly when dealing with the issue of corruption in government), we conducted over 50 interviews with officials from many different sectors of the central government ministries, from all governments (and at all levels, from cabinet minister to senior officials) that have been in office since 1993, and with the relevant figures from the academic and private sectors. We selected our interviewees by applying a mix of purposive and snowball sampling methods in order to capture the different relevant perspectives on the topics under scrutiny (Bauer/Gaskell 2000). In addition, we examined the main formal-legal documents and complemented our interviews with media content analyses of the Polish dailies, *Gazeta Wyborcza* and *Rzeczpospolita*. Finally, we collected some quantitative data on staff numbers in the senior ranks of the ministerial bureaucracy, from the former Civil Service Office and from the Prime Minister's Office.

How much corruption
is in Poland?

3. Corruption in Poland

How far-reaching is the problem of corruption in Poland? This is difficult to answer with any certainty, since it relies on the ability to measure corruption effectively. There are various measures available, but they are all subject to drawbacks. The three principal measures we have used are Transparency International's Corruption Perceptions Index (CPI), the World Bank's data on state capture, and our own analysis of primary and secondary sources (including press reports and investigations by NGOs, such as the Stefan Batory Foundation).

Transparency International's CPI is the most widely-cited measure. As we discuss below, significant caveats need to be considered when interpreting CPI data; however, it provides a useful 'ballpark' indicator for trends (see Table 1, where the black cells show a worse score than in the previous year, the dark gray cells show an improved score, and the light grey cells show no change). Precise interpretations of these scores are impossible, but anything below six could be taken as indicating that corruption is a problem and a score of below four would suggest that it is a major issue.

Table 1. Corruption Perception Index: Results for Central and Eastern European Countries

	2001	2002	2003	2004	2005	2006	2007
Albania		2.5	2.5	2.5	2.4	2.6	2.9
Bosnia-Herzegovina			3.3	3.1	2.9	2.9	3.3
Bulgaria	3.9	4	3.9	4.1	4	4	4.1
Croatia	3.9	3.8	3.7	3.5	3.4	3.4	4.1
Czech Republic	3.9	3.7	3.9	4.2	4.3	4.8	5.2
Hungary	5.3	4.9	4.8	4.8	5	5.2	5.3
Macedonia			2.3	2.7	2.7	2.7	3.3
POLAND	4.1	4	3.6	3.5	3.4	3.7	4.2
Romania	2.8	2.6	2.8	2.9	3	3.1	3.7
Serbia			2.3	2.7	2.8	3	3.4
Slovakia			3.7	4	4.3	4.7	4.9
Slovenia	5.2	6	5.9	6	6.1	6.4	6.6

Source: Transparency International, CPI 2001, 2002, 2003, 2004, 2005, 2006, 2007

As can be seen, there has been a general improvement across the region since 2005 (which probably reflects both the increased attention on the issue and the pressure exerted on accession countries by the European Union). Poland's scores, however, remain poor, even if the trend since 2005 has been more encouraging.

Perceptions of corruption, of course, have to be treated with caution. With the CPI, three significant criticisms can be made. The first, and obvious, question is whose perceptions? The CPI is a composite index that uses a range of different surveys, but nearly all are directed at international business executives based in the developed democracies. It is, therefore, likely that the index primarily reflects how far bribes are seen as being used to secure contracts or business deals - an important issue, but just one aspect of the complex phenomenon that is corruption. Secondly, the various surveys used by the CPI operate with different (and often only implicit) definitions of corruption; therefore, we have no way of reliably standardising assessments of what 'how much' means to different respondents. Thirdly, the CPI suggests a degree of precision through its 100 point scale (0-10 to one decimal point), which is of questionable validity: It is difficult, for instance, to draw a particularly meaningful distinction between Poland's 2006 score of 3.7 and Romania's score of 3.1 - yet these scores led to a difference of 20 places in their respective positions in the 'league table.'

Notwithstanding these caveats, the negative perception of corruption in Poland, as revealed by the CPI, finds support from other sources, such as a survey conducted in August 2005 by TNS OBOP, which showed 94 per cent of Poles thought that corruption took place either often (27 per cent), or very often (67 per cent). A further survey conducted by GFK Polonia Polens in November 2006 (published in the newspaper *Rzeczpospolita*) showed that 93 per cent of Poles thought that the country was corrupt.

Such findings, however, contrast with the views of the political elite (ministers and senior officials): Surveys conducted between 2000 and 2003 by the Demstar programme on Democracy, the State and Administrative Reforms⁴, found that in Poland, just 17 per cent of elite respondents agreed with the proposition that the misuse of status positions was widespread in the country; with 80 per cent disagreeing. Yet, at the same time, 22 per cent admitted that during their time in office they had experienced attempts to bribe them into favouring specific groups or individuals (Pedersen and Johannsen, 2005). In our interviews, it was worth noting that most respondents felt that the problem of high-level political (as opposed to routine) corruption was decreasing, particularly within their own sphere of competence - and yet, when asked about corruption risks, they were usually able to identify with little hesitation specific areas within their own ministry where they felt there was a potential (or actual) problem. In only one instance were we told that there was no corruption problem within the ministry concerned. These findings are consistent with findings in other surveys that members of the elite generally have lower risk and threat

perceptions than do members of the public. It is, therefore, unsurprising that the views of these elite do not correlate at all to the experience of Polish citizens, and suggests that the elite in the Demstar surveys, as well as most of our interviewees, probably underestimated the country's actual level of corruption.

Deteriorating 'Governance Indicators'

If we use the World Bank's governance indicators, as opposed to CPI figures, the trend in Poland appears to have been moving in a negative direction since the late 1990s. Control of corruption, which 'measures the extent to which public power is exercised for private gain, including petty and grand forms of corruption, as well as "capture" of the state by elites and private interests,' has seen a marked deterioration between 1998 (when it stood at the 69.9 percentile rank) and 2006 (when it had fallen to the 60.2 percentile rank). In the World Bank Institute's Governance Matters 2007 report on worldwide governance indicators, 1996-2006 (published in June 2007), Poland also witnessed declines in each of the other five governance indicators: voice and accountability; political stability; government effectiveness; regulatory quality; and the rule of law. The control of corruption aggregate indicator, similar to Transparency International's CPI, is a composite measure derived from re-scaling the findings of 22 other surveys⁵.

Our research suggests that there is a widespread perception (both within and outside Poland) that the country has a significant problem with corruption, and importantly, that this problem has been getting worse in recent years. Our interviewees suggested that corruption was recognized as a problem in Poland, although it was a problem that (unsurprisingly) took place at levels and locations other than those in which our interviewees were operating. It was striking that a number of interviewees commented that corruption at the very top level was difficult because of media scrutiny; suggesting (at least implicitly) that the key risk, or danger zone, is to be found at the level below.

Anti-corruption strategy

Corruption has, of course, long been seen as an issue in Poland, notably under the communist system, when the state's bureaucratic apparatus dominated aspects of social life previously governed by personal or market ties (Sampson, quoted in Tarkowski 1988: 53). Concern about corruption has escalated again in recent years. Although the Polish Government set up an Anti-Corruption Working Group in 2000, following a report published by the World Bank's Warsaw Office at the end of 1999, the issue of corruption really began to assume major political salience after Lech Kaczyński left Buzek's government in July 2001. Kaczyński went on to establish the Law and Justice Party, and corruption soon became established as a central component of political discourse.

Despite the fact that it is not the purpose of this research project to investigate in detail the various scandals that have emerged in Poland over recent years, it is, nevertheless, worth noting that the various corruption scandals and allegations of influence-peddling under the ex-communist Democratic Left Alliance were instrumental in the rise to power of the Law and Justice Party. Jarosław Kaczyński promised to rid Poland of its so-called 'grey web' – an alleged conspiracy involving politicians, business leaders, criminals and spies, who he claimed were running the country from behind the scenes. One of the government's first acts was, therefore, a major civil service reform, as well as the replacing of the managers of state-controlled companies and institutions; however, from the available evidence it appears that high-level corruption has not declined. There are strong grounds for concern that 'state capture' (i.e., the buying of legislation) has remained a real and present danger in contemporary Polish politics. The rest of this report seeks to identify some of the core reasons why this may be the case in relation to the politicisation of the ministerial bureaucracy.

4. Corruption risks and personnel management in the ministerial bureaucracy in Poland

This section examines the corruption risks that are built into personnel management in the Polish ministerial bureaucracy. Its structure follows the four corruption danger zones we identified in the theoretical discussion. We found that corruption risks have continued to grow since 2001 and, in particular, over the period since the implementation of the 2006 civil service reform. Before 2001, the Polish civil service and senior personnel management system more generally underwent a process of continuous upgrading. This development was highly criticised, but until around 2001, it pointed in the direction of reducing corruption risks in the personnel management system.

4.1. Towards the re-personalization of senior personnel policy

When analyzing how far the recruitment and selection of personnel is based on personal contacts and relationships (as opposed to rule-based criteria), we examined the degree, and especially the depth, of the ministerial bureaucracy politicization. Both aspects have a formal-legal dimension, which refers to the recognition of political appointments in legislation, and a second dimension, which concerns the actual practice of managing ministerial personnel.

4.1.1. *The depth of politicization from a formal-legal perspective*

From a formal-legal viewpoint, the politicization of the ministerial bureaucracy has moved further down the ministerial hierarchy, especially after the 2006 civil service reform and the establishment of the state staffing pool for high-ranking officials. The 1996 Government Act defines secretaries of state and undersecretaries of state (both of whom direct a set of departments as the main working units of the ministries), below the political leadership of the minister, who is a member of the Council of Ministers and constitutionally responsible for executive branch ministries: Both secretaries of state and undersecretaries (usually known as 'deputy ministers') are formally recognized as political appointments. They are appointed by the Prime Minister on the recommendation of the relevant minister, and have to resign when the government falls, although their appointment may be

renewed and extended under the succeeding government. Since 1996, ministers have been allowed to establish ministerial cabinets staffed with personal advisors. Members of ministerial cabinets have to resign when the minister either resigns or is dismissed from his position; therefore, the posts of deputy minister and cabinet member have always been formally recognized as political appointments.

The legislation defines the positions of director general, department director and deputy department director, below the rank of deputy minister. From 1999 until 2006, these positions were formally part of the permanent civil service. Since 2006, all three positions have also been recognized as political appointments governed by the law relating to high-ranking state officials. Directors general answer directly to the minister, they lead a range of departments that ensure the internal functioning of the ministry and they arrange mechanisms for internal supervision, audit, human resource management, and organizational maintenance. Today, directors general have to be part of the so-called state staffing pool; however, they are appointed by the relevant minister and can be dismissed at any time. Directors general do not have to be civil servants, but if they are, they formally take leave of absence from the civil service whilst in post. The same applies to department directors and deputy directors, who are in charge of managing individual departments and the units within them. Formally, they are appointed by the director general and not directly by the minister; however, they also have to be part of the state staffing pool, are thus outside the permanent civil service, and must be formally classified as political appointees.

Before the 2006 civil service reform, directors general, directors of departments and deputy directors were formally part of the permanent civil service, and their employment conditions were regulated by the 1998 Civil Service Act, which in fact, established the Civil Service Office (CSO), which was formally in charge of managing civil service affairs, including the organization of competitions for appointing directors. The competition procedure involved the selection by a panel of at least five persons nominated by the Prime Minister and the head of the CSO. Although the Prime Minister formally appointed directors, the head of the civil service nominated most members of the selection panel. The 1998 system, therefore, limited the opportunity for the politicization of appointments that are beyond deputy ministers and cabinet members.

The politicization of directorships in the ministerial bureaucracy was not a sudden break introduced in the 2006 reform, but instead reflected a more gradual shift that began in 2001, when Parliament passed an amendment to the Civil Service Act - the notorious article 144a - which

Directors have become
political appointments

Political appointments
are not new

allowed the Prime Minister to nominate directors on a temporary basis as 'acting managers' without having to go through the competition procedure or being a nominated civil servant. Article 144a was later revoked by the Constitutional Tribunal; however, from 2001, the three types of directorial position were already in the grey area between political appointment and permanent civil service.

The highest rank in the permanent civil service in the current personnel management system is, therefore, the 'head' of a unit or division. The procedure for appointing unit heads is not legally formalized, but is subject to ministerial regulation. Formally, appointment and dismissal are at the discretion of the director general as 'master of the house', although the relevant department director has joint decision-making authority over appointments. Functionally, the head of a unit is, therefore, defined as a civil service post; however, under the current regime, the formal appointment procedure moves even the lowest managerial position in the ministerial hierarchy into the grey area between political and non-political. In formal-legal terms, the personnel management system for the ministerial bureaucracy has moved the line between political and non-political appointments downwards since 2001, and especially since the 2006 civil service reform.

4.1.2. The depth of politicization from a numerical perspective

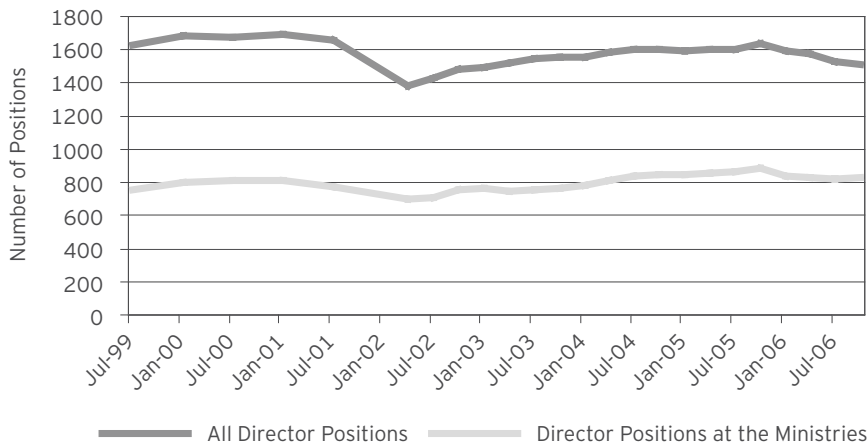
Despite clear re-politicization, it is difficult to specify the precise number of positions that have been made political. Assuming that there is an average of five to six deputy ministers per ministry, we can estimate that since 2005, approximately 90 to 110 deputy ministers were in office at any one time. To this, we should add approximately five members of cabinet per ministry (even if cabinets have not been established in all ministries), which means another 90 to 100 political appointees.

For the next level, the Civil Service Office collected information until October 2006, when the new law came into force. The most recent head count stood at 825 senior positions in central government ministries, which includes 363 department directors and 462 deputy directors, but no directors general (one per ministry); nevertheless, there are major differences across ministries. Some, such as Finance, have around 130 senior positions, while smaller ministries such as Sports and Culture have around just 20 posts at director and deputy director level. The number of senior positions at the level of director and deputy director has remained relatively stable since the mid 1990s. Data provided by OECD-PUMA for 1997 indicates 103 deputy ministers in central

How many political
appointees?

government (PUMA 1999). For directors and deputy directors, the data comes from the Civil Service Office for the period from 1999 to 2006 (see Figure 1).

Figure 1. Director and Deputy Director Positions



Source: Own compilation based on the Civil Service Office.

A comparison of the situation in 1999 with that in 2006, shows that the number of potential political appointees (at the ministerial bureaucracy level alone) has increased by a factor of five from roughly 175 - 210 to more than 1,000. It is important to note that these numbers exclude senior staff outside the ministerial core structures and they also exclude the many heads of units who can be assigned within the ministries and who, since the 2006 reform, lie within the grey area between political appointments and the permanent civil service.

The potential for the personalisation of appointments, and consequent emergence of corruption risks, has, therefore, increased significantly. We should, however, acknowledge that the formal-legal definition of political versus non-political appointments, as well as the definition of the overall number of potential appointees, does not mean that in practice all these positions are necessarily political appointments. The analysis of the formal-legal and the numerical criteria has to be complemented with an analysis of the actual practice of personnel politicization.

4.1.3. *The depth of politicization from the perspective of management practice*

To evaluate the politicization of personnel management, we examined the types of position in the ministerial hierarchy that would be filled with new appointees after a change of government, and the degree to which

More political appointees
during PiS-led governments

personnel changes took place at different levels in the hierarchy⁶. Since 1989, Poland has had twelve governments (counting each change of premier as a new government) and the thirteenth government has just been formed (see Table 2). We focused on government changes following elections, as these also produced wholesale changes in the parties in power. We concentrated particularly on changes of government after 2005, as compared with the elections of 2001 and 1997.

Table 2. Governments in Poland

Period in office	Governing parties	Prime Minister
1989-1991	Non-party/Solidarity, PZPR, ZSL, SD)	Mazowiecki
1991	KLD, ZchN, PC,SD, ROAD	Bielecki
1991-1992	KLD, KPN, KLD, ZchN, Solidarity	Olszewski
1992-1993	UD plus six	Suchocka
1993-1995	SLD, PSL	Pawlak
1995-1996	SLD, PSL	Oleksy
1996-1997	SLD, PSL	Cimoszewicz
1997-2001	AWS, (UW)	Buzek
2001-2004	SLD, PSL, UP	Miller
2004-2005	SLD, UP	Belka
2005-2006	PiS	Marcinkiewicz
2006-2007	PiS, LRP, Self-Defence	Kaczyński

Source: Own compilation.

More turnover during
PiS-led governments

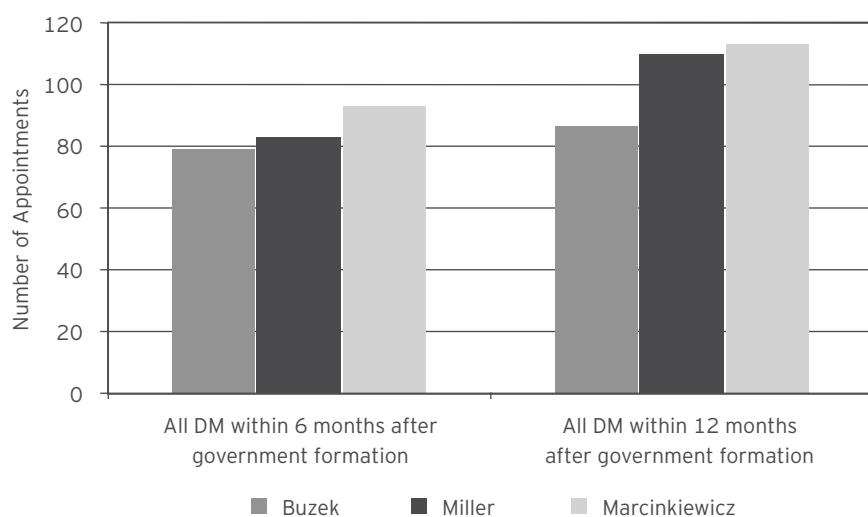
When looking at the depth of politicization since the 2005 elections, we found that the degree of congruence between formal politicization and actual politicization is very high. After the government changed, nearly all deputy ministers from the outgoing administration were dismissed. Only a few undersecretaries survived in post, and in a few cases, deputy ministers did not leave the bureaucracy, but were instead transferred to another ministry; for instance from the Committee of the Office of European Integration to the Ministry of Regional Development. Overall, the turnover at deputy minister level is believed to stand at over 90 per cent.

Table 3 and Figure 2 show the number of new appointments to the position of deputy minister that were made within six months and within one year after the formation of a new government. They show that the number of appointments has continuously increased since the Buzek government, but the differences from one government to another are not dramatic. The numbers do not indicate how many deputy ministers survived a change of government, but simply how many new appointments were made.

Table 3. New Appointments after Changes of Government⁷

			Buzek	Miller	Marcinkiewicz
State Secretaries	Within 6 months	N	21	27	23
	Within 12 months	N	24	38	31
Under-Secretaries	Within 6 months	N	58	56	70
	Within 12 months	N	63	72	82

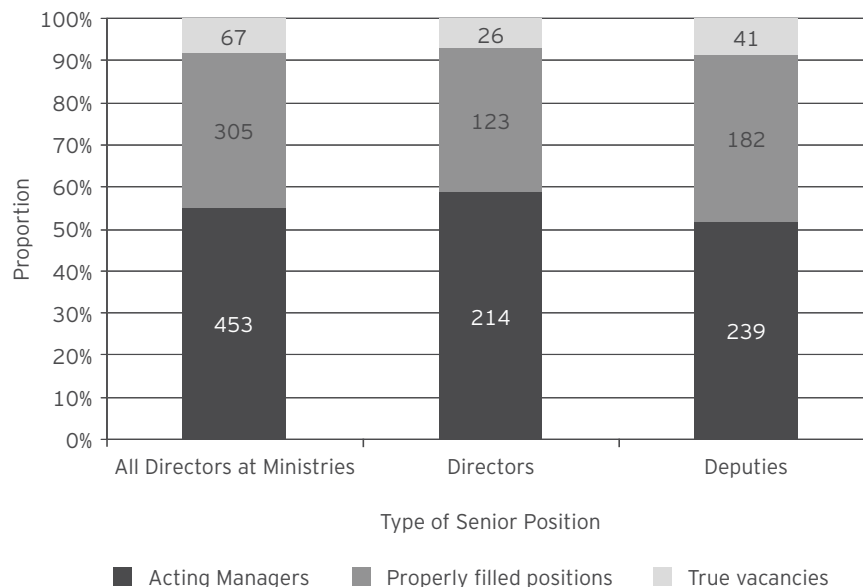
Figure 2. Number of Appointments to the Position of Deputy Minister



Source: Own compilation based on the data from the Prime Minister Office.

In addition, ministers have made far-reaching changes at director general and department director levels. Interviews with former members of the CSO suggest that up to 75 per cent of the directors general were replaced in 2005 and at least 50 per cent of the department directors; therefore, in practice, the boundary between political and non-political positions lies somewhere between the positions of department director and deputy director. Changes were, however, significant at deputy director level, where approximately 30-40 per cent of the incumbents were replaced after 2005. In many cases, even the heads of units (nominally civil servants) were replaced in 2005 and after the formation of the majority coalition in 2006.

Figure 3. Acting Managers vs True Vacancies at the Ministries: October 2006



Source: Own compilation based on the data from the Civil Service Office.

Politicisation of so-called 'acting managers'

Figure 3, also from the former CSO, using data for October 2006 (just before the new Civil Service Act came into force), provides further evidence to indicate that the changes were even more far-reaching than suggested during the interviews. At that time, there were formally 520 vacant senior positions, although only 67 were genuinely vacant, as the other 453 were taken by acting managers who can be considered as political appointees. Thus, over 60 per cent of all directors and deputy directors can be classified as political appointees. In fact, the proportion of acting managers is likely to have been even higher at the turn of 2005/6 when the Marcinkiewicz government had just taken office, as some of them would have gone through the official competition procedure before October 2006. Moreover, Figure 3 does not capture the changes that took place at head of unit level.

There are differences across ministries

There has, however, been considerable variation across the ministries. Some, such as the Health Ministry and UKIE, experienced few changes below deputy minister level after 2005⁸. In contrast, just four of the 22 Interior Ministry directors remained in office after the change of government, although most of the new appointees remained when Kaczmarek replaced Dorn as Minister in 2006. Our interviews suggest that the turnover has been greatest in the Education and Labour Ministries, which underwent a major overhaul in 2005 and again in 2006 when they were taken over by the League of Polish Families and Self-Defence, respectively. Moreover, the PiS-led governments initiated major changes in ministries such as Foreign Affairs and Economy, which had hitherto been less affected by politicisation.

It appears that the 2005/6 centre-right governments initiated more changes, which reached deeper down the ministerial hierarchy than their predecessors did. During the PiS-led governments, therefore, politicisation reached a peak in terms of sheer numbers. It could be argued that the politicization of the ministerial bureaucracy has continuously increased since 1989/90, although under the first Solidarity-led governments between 1989 and 1993, as well as during the first SLD-PSL government from 1993 until 1997, politicization was largely limited to the positions of deputy minister and director general. Until 1996, the director general ranked effectively as chief of staff or deputy minister responsible for 'cadres', which in the tradition of the communist-type administration was a key position in the ministry.

This does not mean that no changes occurred below this level; personnel changes were less frequent and the 'apparatus' was largely left intact. Interviewees sometimes spoke of a process of 'amalgamation,' in which former communist officials and those associated with the democratic opposition worked together. Questions concerning personnel selection were, nevertheless, often highly publicized and the subject of major political conflict; for example, the conflict between President Walesa and successive prime ministers during the early 1990s over staffing of the 'presidential ministries' of the Interior, Defence and Foreign Affairs. Nevertheless, even if there was much public debate concerning staffing, the interview evidence suggests, however, that the political leadership rarely intervened at the level of director and deputy director.

The shift towards greater politicization occurred with the 1997 change of government, when the AWS took office with the slogan 'Now Us,' and an explicit pledge to purge the ministerial bureaucracy of officials from the communist era. As a consequence, the staffing of director positions became increasingly subject to political interference; however, our interviews suggest that the scale of change was lower than in 2005/6, when the next centre-right government took office.

It is difficult to estimate whether the 2001 change of government produced more turnover than the change of government in 1997. Majcherkiewicz (no date) argues that the Miller government returned to a nomenclature-style personnel policy, in which all managerial positions were taken over by the SLD and the PSL. This resulted in the replacing of approximately 75 per cent of the directors general and 50 per cent of the directors (see also Czaputowicz 2005). Majcherkiewicz's estimates are largely confirmed by the quantitative data collected from the former CSO, which indicates that over 50 per cent of directors were appointed on the basis of article 144a as 'acting manager' without going through the official competition procedure.

Politicisation existed
in the 1990s

Politicisation after
the 2001 elections

Overall, the data indicate that politicisation of the ministerial bureaucracy has grown almost continuously since the democratic transition, reaching a peak with the PiS-led governments of 2005 and 2006. In particular, the government changes of 2005/06 meant that some ministries, such as Labour and Education, underwent significant turnover twice in twelve months. Moreover, the junior coalition partners Self-Defence and the League of Polish Families strongly advocated personnel changes, which often extended even further down the ministries they controlled than those led by PiS ministers. Personal exchanges and relationships have, therefore, become more (rather than less) important over the years, and corruption risks inherent in personnel management have grown accordingly⁹.

4.2. Multiple dependencies and senior personnel policy: The many links of ministerial officials

The second corruption danger zone relating to the personnel management system concerns the role of single versus multiple dependencies, which we evaluated by examining the career pathways of officials, and the decision-making processes that led to their appointment.

4.2.1. Multiple dependencies and recruitment channels

Legally, the personnel system in Poland poses few restrictions on the choice of recruitment channel. Secretaries of state can be recruited freely, and can simultaneously be parliamentary deputies; meaning that career politicians can be appointed. Undersecretaries, however, are not allowed to be deputies. Directors general, directors of departments and deputy directors also need to be members of the state staffing pool.

Before 2006, the three types of director position were reserved for nominated civil servants. The 1999 Civil Service Act ensured that officials were only eligible for director positions after at least two years of service in the government administration (see further below). Recruitment to director posts was, therefore, limited to insiders, and excluded academics, private sector candidates, political parties, local government administrations, and so on. The introduction of article 144a in 2001 opened the door to the recruitment of outsiders, but this flexibility was only formalized in 2006.

With respect to recruiting senior officials, it is more difficult to make generalizations without detailed information on the career pathways from their CVs (e.g. Meyer-Sahling 2008). The insights from our

What are the recruitment
channels?

Promotion within
ministries

interviews suggest that deputy ministers were usually employed prior to their appointment outside the ministerial bureaucracy, which entails a corruption risk by creating the potential for outside dependencies. In contrast, the ministries are the main channel for the recruitment of directors and deputy directors¹⁰. In fact, the PiS government often staffed director positions by promoting deputy directors, which then created vacancies to promote heads of units to deputy director positions. There are, of course, important exceptions; however, even ministries such as Education and Labour did not witness a complete personnel overhaul, but rather a reshuffle plus the insertion of some officials at director level and the appointment of deputy ministers mainly from outside.

The concept of 'recruitment from outside' the ministerial bureaucracy, nevertheless, requires qualification. Our interviews highlighted several features for the 2005/06 cohort of officials, which reduce concerns about senior officials being potentially overly dependent on private, corporate and group interests outside the state. Many of the new appointees were returnees who had been employed in government administration during the Buzek government, and had bridged the out-of-office period in various settings; primarily in the public sector and the wider public administration.

Two specific recruitment channels often mentioned in interviews were Warsaw City Hall and the Supreme Audit Chamber, NIK, both of which are often associated with the political career of President Lech Kaczyński who was the Mayor of Warsaw and a former President of NIK. While many officials may have moved from Warsaw City Hall and the NIK to the ministerial bureaucracy, it is possible that the media and personal interviews have exaggerated the importance of this recruitment channel, on account of its political salience.

A third recruitment channel is local level administration; however, interviewees were less clear about the rationale behind moving from local to central government administration. To some extent this is related to the personal networks of ministers and deputy ministers when they choose trusted appointees from their own geographical background; it also has to do with the greater financial reward of central compared to local level jobs. Another important path into the ministerial bureaucracy is the recruitment of officials from the wider periphery of the ministries, especially Interior, Finance, Health and Education.

Finally, alumni from the National School of Public Administration, KSAP, have gained important influence as a group of officials since the government change of 2005/6. KSAP has produced about 800 alumni since the mid 1990s, and interviewees suggest that approximately 80

Recruitment of
outsiders

KSAP alumni

per cent are still in the government administration. KSAP alumni found career advancement more difficult during the Miller government, when many were forced to leave the ministries and seek employment elsewhere. Given their professional training, however, KSAP alumni naturally sought to return to government after the 2005 PiS victory. They represent an important professional backbone of the administration and constitute a natural pool of talent for future governments.

It appears, then, that a large proportion of appointees have experience in public administration and in the wider public sector; therefore, a kind of senior administrative class has emerged, which despite being diffuse can be distinguished from the earlier pattern, in which officials were primarily recruited from private sector settings, academia, interest groups or directly from political party organizations (Raciborski 2007). The politicisation of the ministerial bureaucracy would, however, also suggest a greater role for party patronage and, therefore, a greater influx of party officials. We will discuss this in more detail in the next section, but from our interviews, it transpires that new appointees are in fact rarely recruited from party organisations, even if they are closely connected to parties.

Less recruitment from
academia and the private
sector

An important difference between the PiS-led governments and their predecessors is the smaller role for academics and private sector recruits. Under earlier governments, university professors would commonly recruit deputy ministers from amongst their academic peers, or would staff their offices with graduates, colleagues and supervisees. Furthermore, the private sector was a much more common recruitment ground; nevertheless, from our interviews it transpires that both academics and more senior private sector managers have become reluctant to join the ministries, even when 'invited' by senior ministers. Financial considerations play a role here, as does the likelihood of staying in office for only a short time (see below), and the negative evaluation of how the ministerial bureaucracy is managed by governing parties.

Many senior officials
are young

This leads to the final characteristic of the senior officials appointed by the PiS-led governments: their youth. In contrast to earlier governments, PiS recruited a much larger number of officials in their early and mid 30s. These officials can often demonstrate impressive educational achievements, but inevitably lack long experience in the public sector or elsewhere. They were, nonetheless, inserted directly into the senior ranks of the ministerial bureaucracy at the level of director, or in many cases even at the level of deputy minister. Previous governments, especially under Buzek, Miller and Belka, had largely

relied on mobilising existing networks of experienced personnel. In contrast, the Marcinkiewicz and the Kaczyński governments broke these old networks by bringing in a new generation of senior officials.

The discussion of recruitment channels provides an ambiguous picture when seen from the perspective of corruption risks. On the one hand, the considerable influx of officials from outside the ministerial bureaucracy suggests vulnerability to outside pressures and influences. On the other hand, the dependence of the ministerial staff on private sector interests has decreased over time. Moreover, the recruitment policy of the PiS-led governments was also ambiguous, since they sponsored the influx of many new and young officials, which broke the old dependencies of ministerial officials; nevertheless, there are grounds to believe that this practice is also intended to serve as an investment for the future: These appointees represent the nucleus for the formation of new networks around the ministerial bureaucracy (and other state institutions). The pay-off of this strategy may well be the reproduction of a form of 'political capitalism' (Staniszkis 1991, 2000), which gives a pre-eminent role to the political centre-right. This differs from the original form of political capitalism that characterised state-market relations in Poland during the early post-communist period and which was dominated by former nomenclature networks. Looking at the career background of officials is just one way of assessing their dependencies. To complete the picture, and to better understand the influence of political parties, we need to examine the actual selection processes more closely.

4.2.2. Multiple dependencies and the process of selecting senior personnel

In the Polish ministerial bureaucracy, we can generalize that under the PiS government, deputy minister positions were largely determined by the tension between the imperatives of coalition politics and the attempt by ministers to reassert their autonomy over senior appointments. At the level of director and deputy director, the tension lies between deputy ministers seeking to choose directors for departments under their control, and directors general as the guardians of global ministerial personnel policy. Following the 2006 civil service reform, the position of director general was weakened; implying more autonomy for deputy ministers.

From our interviews came a clear sense that ministers have the unwritten right to assemble their own team and, therefore, enjoy extensive autonomy over the choice of their deputy ministers and

Who selects
senior officials?

Deputy ministers are subject
to coalition bargaining

director general; nevertheless, at least since the Suchocka government in the early 1990s, the appointment of deputy ministers has been subject to coalition politics and inter-party bargaining. The PiS-led governments of 2005/6 were no different. Deputy minister positions were allocated on the basis of party strength and the principle that all parties should have leadership of a ministry. This rule applied even to ministries otherwise largely run as professional, almost non-political bodies, such as Regional Development; however, parties sometimes fail to find candidates for the position of deputy minister or else fail to find officials who are acceptable to the minister in charge.

Ministers have to accept the norm of representativeness in the allocation of deputy minister posts, but they usually have a (limited) veto over candidates. The extent to which ministers have to accede to outside pressures is a function of their personal power within the government. As one minister explained, he had to accept many more demands from both the senior governing party and the junior coalition partner at the beginning of the parliamentary term than towards the end when he was Deputy Prime Minister. Moreover, if ministers have some bargaining power within the government, they can trade the choice of deputy ministers against the allocating of departmental responsibilities within their jurisdiction.

Senior officials with multiple dependencies, is not a new phenomenon in Poland. Until the end of the socialist government in 2005, it was common for finance ministers (much like coalition partners) to place some of 'their' appointees in other ministries such as Health, Labour, and Economy. Moreover, during the 1990s, prime ministers often appointed in effect 'special envoys' to ministries such as the Interior and Economy ministries. For instance, Buzek entrusted his own Deputy Minister in the Interior Ministry with implementing regionalization reforms, and largely by-passed the minister and his deputy. Pressures that create multiple dependencies are often reinforced by the strategies of ministers themselves; especially those from junior coalition parties who appoint representatives from the senior coalition partners in order to gain access to and 'buy' support for their policies.

Including the allocation of deputy minister positions in coalition deals provides opportunities for divided loyalties and islands within the ministerial hierarchy that are beyond the minister's control. From a perspective of identifying corruption mechanisms, this is a major risk area.

While deputy ministers have faced many outside dependencies, especially political, at least since the early/mid 1990s, this tendency has since been reinforced following the 2006 civil service reform, which weakened the countervailing influence of directors general and especially the head of the CSO when selecting directors and deputy department directors. Under the current regime, deputy ministers have effective autonomy over the recruitment of department directors. Ministers tend to recognise this autonomy. In formal terms, as well as in practice, the deputy minister needs to 'negotiate' candidates with the director general; in practice, the latter lacks the power to object, because he depends on the minister's support. Our interviews with several directors general suggested that they largely rubber-stamp the appointment wishes of deputy ministers. In turn, the autonomy of deputy ministers is usually handed further down to directors and deputy department directors, in that they can choose their own staff.

We should also note that political parties are rarely directly involved in staffing positions below deputy minister rank and beyond ministers' political cabinets. Where parties do intervene, their influence is indirect via the deputy ministers. We explored the hypothesis implied in some patronage literature (Grzymala-Busse 2007, O'Dwyer 2006) that parties would reward their supporters with appointments in non-managerial positions and units, leading to an expansion of the administration. Directors general as well as department directors do indeed receive occasional phone calls from MPs, or the minister may pass on the CV of a preferred candidate; however, from our interviews, it transpires that there would not be any strong pressure to appoint to lower level positions. Party political intervention in personnel policy has, therefore, generally increased in Poland, but it is concentrated at the top of the ministries and is otherwise indirect, via deputy ministers (cf. Meyer-Sahling 2006).

Before the 2006 reform, by contrast, the head of the civil service retained an important selection role by organizing the competition procedure. According to the 1999 civil service system, vacant positions at the level of director had to be advertised. Candidates would then have to go through an examination and be interviewed by a panel of independent experts, directors general and nominees of the PM before selection. Through nominating more members of the selection panel, the head of the civil service played a key role in the process. This procedure was largely followed in practice until the 2001 amendment of the Civil Service Act, when article 144a began marginalising the role of the head of the civil service in the selection process¹¹. Ultimately, the 2006 civil service reform led to the abolition of the civil service office

The power of Directors
General has weakened

Closing of the
Civil Service Office

and, therefore, to the end of the countervailing influence from the head of the civil service.

To sum up, mutual dependencies and accountabilities have long been a feature of the ministerial bureaucracy in post-communist Poland. It could be argued that the end of the CSO reduced the number of dependencies faced by senior officials and, therefore, reduced corruption risks. The incorporation of deputy minister positions in coalition bargaining implies, however, that ministers are vulnerable to a loss of control over parts of the jurisdiction for which they are formally accountable, because, in practice, some of the deputy ministers are only partially answerable to them. The director general and the head of the civil service did not merely have a role in reducing the personalization of personnel policy and increasing the screening capacity of the system, they also helped prevent the ministerial bureaucracy from fragmenting into politicized fiefdoms. From the point of view of corruption risks, the recent reform and the resulting personnel selection dynamics have been counterproductive. The increased proportion of recruits from the public sector and public administration has not reduced multiple dependencies, but has instead diverted them away from private and special group interests towards a growing role for political parties and their networks.

4.3. Screening and senior personnel policy: Picking honesty and competence

The third corruption danger zone concerns screening mechanisms and the capacity of the personnel management system to detect potentially dishonest officials at the point of entry, or deter them from applying in the first place. When comparing the current system with that envisaged by the 1999 Civil Service Act, it is clear that screening capacity has been considerably reduced. This is largely the result of the lowering of professional standards for entry, the watering-down of the examination procedure at director level, and ambiguities surrounding competition for appointment to senior jobs.

No screening of
Deputy Ministers

Deputy ministers are effectively subject to virtually no screening, as there are no specific standards and procedures that candidates need to follow (although this has been true ever since the transition to democracy). A similar situation applies to members of political cabinets.

State staffing pool

Directors general, department directors and deputy directors differ in that they have to be members of the 'state staffing pool' for high-ranking state officials, established in 2006. To become members of the state staffing pool, individuals need to pass a written examination, which must be re-taken every ten years. Candidates are also required

to possess a university degree and at least three years of professional experience; though not restricted to public sector employment. This means university graduates cannot immediately become members of the state staffing pool. The examination is administered by the National School of Public Administration and consists of a one-day written test that includes an assessment of managerial knowledge, technical skills and language skills in at least one EU foreign language.

The examination route is the standard path to the state staffing pool; otherwise, officials may be automatically admitted if they have been a nominated civil servant for at least five years or if they hold a Ph.D. A 2007 amendment (which removed the original requirement for at least five years of professional experience, the exam to be re-taken every three years and examination for holders of PhDs), therefore, lowered the criteria for entry and increased the size of the reserve pool from approximately 10,000 to up to 100,000 members¹².

The requirement to be a member of the state staffing pool suggests that candidates for the post of director are subject to at least some form of screening and competence assessment; however, the threshold is arguably not very high. Candidates can potentially be recruited through all conceivable recruitment channels inside and outside the civil service. Moreover, the one-day exam run by the National School of Public Administration can hardly be said to constitute an in-depth probe into candidates, even if no more than approximately 50 per cent passed the first round of the examinations.

One of the main flaws of the new system, however, results from the decision to establish a transition rule that would automatically admit to the state staffing pool all directors who were in post when the act came into force. As many directors were appointed as 'acting manager' (see above), they had never passed an examination or faced any competitive procedure. The lenient transition rule was further misused, because ministers and deputy ministers would appoint a reserve pool of acting managers within their ministries just before the act came into force. This would ensure that these officials would automatically join the state staffing pool. As a consequence, at least half the appointees to director positions in office in the autumn of 2007 had not passed even the (arguably not very rigorous) screening test envisaged by the 2006 reform.

The 2006 Civil Service Act represented a considerable lowering of standards, and less demanding tests for entry to director posts. Before 2006, these posts were formally reserved for nominated civil servants and had to be assigned following a competitive procedure.

PiS-governments tinkered
with entry to the state
staffing pool

More screening
before 2006

For the screening system, this meant that officials had to rise through the ranks before becoming director general or department director. In order to become a nominated civil servant, officials have to pass a test within six months (now three months) of their initial recruitment, followed by a qualification period of at least two years, before applying for the so-called examination procedure. This examination is more rigorous than the exam for the state staffing pool, and includes a written test of knowledge and skills, a test of general psychological aptitude and analytical abilities, as well as a separate language test. Candidates need to achieve a minimum mark and are also ranked; only the highest ranked are nominated to the limited number of permanent civil servant posts released annually.

In relation to addressing corruption risks, the examination and competition procedure of the 1999 civil service system looked exemplary, as it subjected candidates for senior positions to rigorous screening and competence testing¹³. Competition, however, for senior posts, probably never really worked as intended, since the procedure was usually considered too cumbersome and time-consuming; nevertheless, more generally, prime ministers and ministers sought to circumvent the requirements of the screening system. The competition procedure caused conflict over job descriptions and advertising, between, on the one hand, the Prime Minister and ministers, and on the other, the head of the civil service, since the former tended to have an interest in helping 'their' candidates.

Loopholes also
existed before 2006

The main strategy used to circumvent competitive procedure was to appoint 'acting managers,' who would subsequently enter the process as internal candidates and arguably be in the best position to win. Czaputowicz (2005) states that in 2004, the largest proportion of competitions was won by acting managers. Moreover, other candidates would see the competition as unfair and be less likely to submit an application. This has sometimes led to just a handful of candidates for vacant director posts. Although governments had tried to circumvent the screening system and reduce its competitiveness prior to 2006, the legal requirement to pass the competition procedure implied that directors had at least to prove their competence (at some point after their appointment) before the civil service office; a body largely independent of political interference.

In terms of corruption risks, these developments imply a further watering-down of the screening system and the growing vulnerability of the personnel system. In fact, current practice suggests that a larger state staffing pool may not necessarily lead to the provision of more qualified candidates. Views from ministries and the managers of the

state staffing pool suggest that the most qualified candidates already occupy posts somewhere in the central or regional government administration, while those eligible, and with suitable qualifications, are not necessarily willing to join the administration. A further erosion of the screening system is, therefore, likely in the future.

4.4. Reputation-building and senior personnel policy: short-term fears and long-term prospects

The fourth corruption danger zone refers to the incentive for officials to build a reputation for honesty and competence. The assumption is that short terms in office reduce the time horizons of appointees, which in turn creates incentives to look to the day after dismissal, thereby increasing vulnerability to corrupt offers and exchanges. By contrast, if officials can expect to be in office a long time (through tenure or some other career prospect), they develop longer time horizons and the incentive to build a reputation for honesty and competence, which may pay off at some point in the future.

Long-term horizons are not limited to tenured civil servants, but are also relevant for political appointees. When looking at the incentives for officials to develop a reputation for honesty and competence, we have again distinguished the formal-legal configuration (notably the rules regulating dismissal and subsequent employment), and the actual practice of dismissals and post-governmental bureaucracy career pathways.

The formal-legal perspective suggests that job security for senior officials has declined since the 2006 civil service reform¹⁴. Deputy ministers can be dismissed at any time without explanation (although this has been the case since 1989). Directors general, department directors and deputy directors can also be dismissed at any time, although directors who are also civil servants will subsequently be re-incorporated to the civil service, whilst others are effectively out in the cold. Only some officials at director level, therefore, enjoy long-term job security. In fact, even assignment to the position of head of unit can be withdrawn at any time, although, after losing their posts, such individuals would be re-classified either as civil servants or civil service employees with indefinite contracts.

The greatest degree of insecurity relates to deputy ministers and directors who are not on leave from the civil service. It is difficult to make generalizations from the evidence we have, but it transpires from our interviews that at least some deputy ministers have the prospect of pursuing a political career after dismissal. Secretaries of state in many cases already have a mandate as parliamentary deputies. The post

Creating long-term
horizons

Time horizons of
senior officials

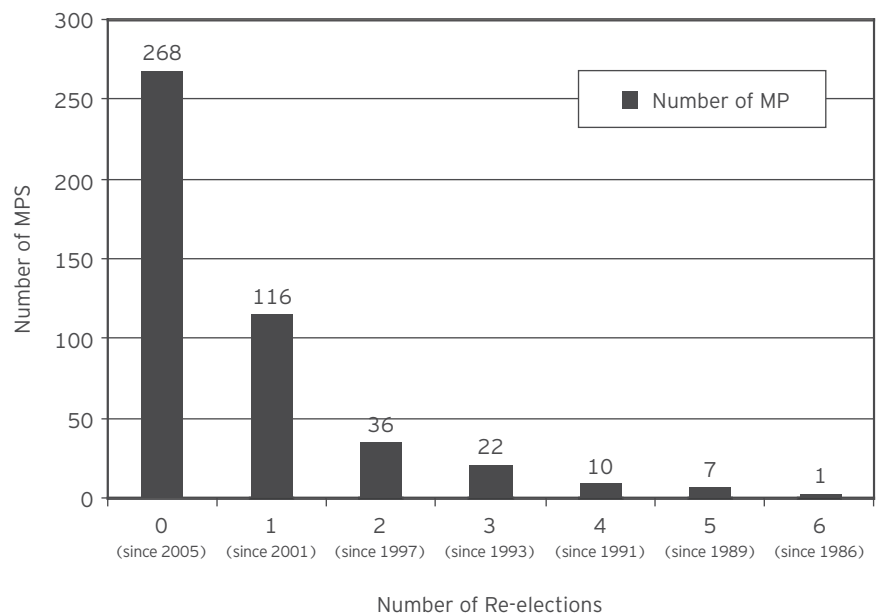
Prospects of being re-elected to the Sejm

of deputy minister, given its incorporation to coalition deals, is an attractive position for political and partisan careerists and is seen as a springboard for future political ambitions. This is especially the case for party candidates who have not managed to secure a seat in parliament.

The time horizon of deputy ministers is, therefore, not necessarily short, as they may be considering their future political careers. This was mentioned in interviews, but would require further investigation to substantiate. In fact, Polish Sejm statistics suggest that the political careers of MPs are very short. Of the 460 MPs currently in parliament, 268 were elected for the first time in 2005 and only 76 have been re-elected more than once (see Figure 4)¹⁵. Thus, the chance of pursuing a political career lasting more than eight years is around fifteen to twenty per cent, so the short tenure of deputy ministers may not necessarily be followed by long political careers in parliament. The incentive to 'use' the deputy minister position for political career advancement may, therefore, be limited, and the need to plan future career paths in turn creates risks from the point of view of corruption research.

For directors general, department directors and deputy directors, the situation is similar, unless they are nominated civil servants who will have a greater incentive to develop long-term reputations for honesty and competence. Directors who are not nominated civil servants, by contrast, face much greater uncertainty, and so there is more incentive for them to use their appointment as a springboard for a job elsewhere. In relation to reputation building, corruption risks have, therefore, become greatest at this level of the ministerial hierarchy.

Figure 4. Political Career Prospects of Polish MPs, 2005 Parliament



Source: Own compilation based on the data from the Polish Parliament.

In conclusion to this section, our analysis indicates that over recent years corruption risks have grown in all four danger zones associated with the management of personnel. Many elements of the 2006 civil service reform were adopted in the name of increasing flexibility over staffing, increasing discretion for managers to reward performance, and enhancing political control over staff and the policymaking process. Governing parties may indeed have increased control over their staff (if we equate deeper politicization with more political control); however, this strategy entails considerable trade-offs when viewed from the perspective of preventing corruption risks. In fact, our analysis suggests that it is debatable whether the reform of the personnel system towards more flexibility and the deeper politicization of the ministries has really strengthened the political control of the ministerial bureaucracy. Our discussion on mutual dependencies suggests serious limits to effective control under conditions of a coalition government. Increased flexibility may, therefore, generate some unintended consequences. Moreover, addressing issues of control over recruitment and selection is only the first step in the process of managing the ministerial bureaucracy. The next section examines corruption risks built into the management of the policymaking process in Poland, i.e., during the period after officials have been recruited.

5. Corruption risks and the management of policymaking in the ministerial bureaucracy in Poland

Overview

In this part, we focus on managing the policymaking process, and we argue that, from the perspective of individual ministries, corruption risks have largely persisted at a relatively high level. This was a somewhat surprising finding, since the PiS-led governments and their predecessors pursued a number of reforms such as the introduction of lobbying rules and regulatory impact assessments, which have the potential to reduce corruption risks. We found, however, that changes in the formal rules are seldom applied or are applied very inconsistently across the ministries and even within individual ministries. The new formal rules have, therefore, had little impact so far on the actual practice of policymaking.

We also examined the extent to which the under-institutionalisation of the policy-making process can be traced back to the personnel strategy of recent governments, in particular since 2005. We found that politicisation of the ministerial bureaucracy has largely prevented the institutionalisation of the policy-making process. Given the many inconsistencies we found across ministries in managing the policy-making process, structural instabilities and the dependence of management patterns on individuals, as well as a general preference for personalised forms of coordination and control, we argue that politicisation of personnel management does provide a plausible explanation of the difficulties in making formal-legal frameworks function effectively. The remainder of this section develops these arguments in more detail.

5.1. Limiting discretion: the formalisation of job responsibilities and officials' perception of autonomy

How to reduce discretion

Discretion is a necessary condition for corruption. Given the inevitability of delegation in modern government, a critical mechanism for reducing discretion and, therefore, addressing this corruption danger zone, is to formalise, specify and circumscribe officials' responsibilities. Where this has not been accomplished properly, discretion becomes unpredictable and corruption may flourish. We have examined how the job responsibilities of ministerial officials were formalised and the extent to which officials felt autonomous in their role.

The responsibilities of government ministries are mainly formalized in the 1996 Government Act and the 1999 Act on the Council of Ministers' Responsibilities. These laws define the broad responsibilities of government and outline the division of functions between executive branch ministries. Formally, the Prime Minister is responsible for allocating functions and determining the boundaries of ministries. The 1996 Government Act also stipulates parts of the internal structure of ministries, distinguishing 'meritorial' departments, which deal with policy work, from offices, which provide services for the ministerial organisation and are led by a director general. Accordingly, the Act requires ministries to establish various departments, ranging from human resources and legal matters to EU and budgetary affairs. Beyond this, ministerial statutes define the functions and accountability relations of deputy ministers and departments, while departments develop internal regulations that specify the responsibilities of individual departments, units and their staff.

In practice, ministers have significant autonomy over the organisation of their ministries, although they are constrained by coalition politics. Ministers, however, usually enjoy wide discretion over the allocation of responsibilities. When the Kaczyński majority coalition was formed in 2006, the Ministry of Regional Development, for instance, changed the allocation of functions so that deputy ministers 'representing' Self-Defence received fewer responsibilities. Deputy ministers and department directors have also great autonomy over the design of the regulations within their areas of responsibility.

From our interviews, it transpires that there is great diversity in the way responsibilities are defined and interpreted across the government and even within individual ministries. In some cases, such as examining the consistency of government bills with EU legislation within UKIE, responsibilities are clearly defined and widely delegated to individual specialists, and the autonomy of officials is clearly circumscribed. In these cases, officials can work largely on autopilot. The decision to delegate jobs internally is largely in the hands of the department director and driven by the need to meet deadlines that are often very short.

The general picture derived from the interviews was that officials enjoy a broad level of autonomy over how to perform their duties. Autonomy is especially high at the level of operations, where officials sometimes are completely free in the way they organize their tasks. Operational autonomy may have been even higher before 2005 when, especially under Buzek, senior officials were given broad reform and policy objectives to develop largely on their own. Examples include the

'Can-do' deputy ministers

dissolution of the ministry of communications by the Ministry of the Economy and the implementation of the regionalization reforms by a deputy minister in the Ministry of Interior¹⁶. Reliance on this kind of 'can-do' deputy minister, whose term in office is largely limited to solving particular policy and implementation problems, was widespread during the 1990s and may well have become part of the administrative culture in Poland.

The degree of autonomy differs across levels of the ministerial hierarchy. Deputy ministers typically have more discretion than directors. In fact, several directors general pointed out that, although the civil service law specifies the functions and duties of the director general, there remains considerable room for interpretation and therefore autonomy over the specific details of their role.

It was striking that no interviewee voiced concerns over a lack of autonomy in their job. From the point of view of corruption, the main risk here lies in an apparent discrepancy between the formalization of tasks on the one hand and the officials' perception that they can interpret their roles very broadly on the other.

Autonomy for officials in deciding how to achieve objectives is not necessarily negative. In fact, the 'new public management' agenda, popular in established western democracies for over twenty years, promotes the notion of 'letting managers manage.' We have, therefore, examined how officials actually used their autonomy and, in particular, the extent to which they actively sought to contribute to the development of new policies.

Lack of initiative at lower levels

A widely-held view is that ministerial staff, from director and especially head of unit level downwards, are defensive, passive and generally reactive, which in turn reflects the administrative culture of the late communist regime. Indeed, the lack of policy initiative among directors, deputy directors and lower level staff is sometimes used to justify changing personnel.

We found little evidence to confirm this hypothesis, but instead considerable interest among permanent staff in contributing actively to the policymaking process and using their autonomy constructively. This was true of political appointees and also of officials who had worked in the ministries for a long time, and of young officials as well as old. For instance, some directors informally set aside up to half of the department's time for conceptual and often long-term work that is aimed at developing solutions for issues that fall within the scope of their department. In practice, however, the short-term agenda of

ministers has mostly prevented them from reaching this target. Similarly, officials have said that they often wanted to suggest changes to existing policies, but were constrained by existing rules and policy regulations. As it is one of their responsibilities to monitor these rules, they are more aware than most that only incremental changes are possible.

We also found that directors, deputies and heads of unit, particularly after working in the ministry for an extended period of time, proposed smaller-scale ideas that often reflected the concerns of their immediate environment. Directors general, for instance, were preparing new frameworks for evaluating the performance in one ministry, or developing mechanisms to improve the allocation of bonus payments by directors. Similar examples were found in sectors as diverse as health, transport, taxation and environment. Directors and the next levels in the hierarchy tend, therefore, to pick up the signals from their immediate environment and feed them back into the policymaking process.

This approach to policymaking differs from that of most deputy ministers, who tend to come to office with a pre-established policy agenda and, therefore, become the main policy initiators within the ministries. Their approach is more politically motivated, in that they come to office to 'get things done.' In consequence, personnel changes at director and deputy director level create an even greater sense of policy activism, but at the price of receiving fewer signals from the ministry's immediate policy environment.

The impact of personnel politicisation on the formalisation of policy responsibilities and the perceived autonomy of senior officials does not end here. An emphasis on getting things done within a short time frame leads to greater attention being paid to results-oriented as opposed to rules-oriented policymaking. The appointment of 'can-do' officials, therefore, contradicts efforts to formalise and circumscribe the responsibilities of senior officials at deputy minister level, but increasingly also at director level. In terms of preventing corruption in government, this variety of factors is counterproductive; however, the personnel politicisation, and the legacy of the transformation process more generally, may have created conditions that are more propitious for the introduction of new public management reforms than would be in most continental European administrations.

Overall, we can conclude that while the responsibilities of officials are subject to routine formalisation, formal rules do not prevent officials from perceiving a large degree of autonomy over their work. In terms of corruption, the main risk results from formal rules being broadly

Political appointees are
'crowding out' initiatives
from below

interpreted, which creates potentially significant discretion for officials. The 2005 change of government has made little difference in this respect; however, the politicisation of personnel management reinforces the lack of formalisation and the preference for policymaking autonomy.

5.2. Policymaking and multiple dependencies: lost in the coordination web

Is government fragmented?

Multiple dependencies at the level of managing the policymaking process can create corruption risks, because senior officials may be able to exploit disagreements between several principals. We investigated the coordination needs of senior officials in the policymaking process, and found that corruption risks arise from the fragmentation of the government between competing centres of policy coordination. The imperatives of coalition politics also place diverse demands on senior officials. These risks have not really intensified over the last few years, but they have remained largely unchanged since 2005.

Fragmentation of government decision-making is not necessarily obvious through the formal-legal framework. The rules and procedures of government decision-making are mainly defined in the 1996 Government Act and the 2002 Regulation on the Council of Ministers, which established coordinating bodies such as the Prime Minister's Office and the Government Legislation Centre. They provide for the establishment of inter-ministerial committees and define the consultation procedure that precedes the passage of legislative proposals by the cabinet, and their submission to Parliament. Together, these rules seek to promote the development of coherent government policies¹⁷.

Ministry of Finance as a key actor

In practice, by contrast, we found that governments have struggled to contain fragmentation tendencies, in that officials within ministries have to juggle the demands, interests, and rivalries from various bodies, with coordinating ambitions. All ministries and their departments are required to coordinate closely with the Ministry of Finance, the power of which has obviously varied over time; however, budgetary and spending issues ensure the necessity of close coordination. Relations, however, with the Ministry of Finance were often described as difficult and even strained. This was especially the case for other bodies with coordinating roles, such as UKIE and the Ministry of Regional Development.

Ministry of Regional Development in the ascendance

Two other important coordinating bodies inside government are the Office for European Integration and the Ministry of Regional Development. In practice, the role of UKIE has weakened since

Poland joined the EU in 2004; however, before this, UKIE was the key coordinating body for the transposition of the EU acquis into Polish law (Zubek 2005). Recently, UKIE has been integrated into the jurisdiction of the Ministry of Foreign Affairs. This has reduced its status and has created tensions, within the Ministry, between the core and the UKIE-branch. UKIE retains the key role when it comes to the coordination of EU-related tasks, such as the examination of legislative proposals for compatibility with EU law, but it is no longer a driver for inter-ministerial coordination (see also Kamińska 2007).

UKIE's EU role has been, to some extent at least, taken over by the Ministry of Regional Development, which was created after the 2005 change of government; having earlier formed part of the Ministry of Economy. The Regional Development Ministry now coordinates EU structural and social funds, which makes it an important partner for almost all other ministries and effectively the gate-keeper for access to European money.

In addition, ministries typically have to coordinate with the Prime Minister's Office. In fact, the Prime Minister's Office (PMO) and the Prime Minister himself play a much less active role in terms of government coordination, which reflects the constraints faced by Poland's head of government, as compared with his European counterparts in countries such as Hungary and Germany. The PiS-led governments sought to strengthen the role of the centre of government, which resulted in the establishment of various task forces at the Prime Minister's Office. While they have gained some relevance as coordination and mobilisation forces, they are less able to provide substantive policy input. The PMO, therefore, still lacks the means to effectively integrate government policy, as does the Government Centre for Legislation (GCL), attached to the PMO. Ministries recognise the importance of the institution, and all legislative proposals need to pass through the GCL for a legal health check with respect to Polish law, but this does not serve to integrate government policy more effectively.

The potential for multiple dependencies is reinforced by the need for ministries to take into account the administrative institutions within their own sector. At the level of ministerial policymaking, officials must factor-in the wide variety of coalition actors in the government, at least for most of the time, although this constraint is felt most acutely at the level of ministers, secretaries of state and deputy ministers. Indeed, there is often a need to respect the view of party leaders rather than the Prime Minister, who can, therefore, command authority inside government, only if he is also leader of the senior coalition party. Ministers and deputy ministers would occasionally consider the

UKIE has lots
influence

The PMO has still
a limited role

Coalition government as
a source of fragmentation

Decentralisation as
a source of fragmentation

President's views in the policymaking process, but since Wałęsa was replaced by Kwaśniewski and particularly since the 1997 Constitution, the President has a reduced role in domestic policymaking, and acts only as a veto player during periods when the President and the Government are from different sides of the political spectrum. Under the PiS-led governments, this source of fragmentation was, therefore, largely neutralised.

Directors, by contrast, focus more on the role of MPs, and together with their deputy ministers, play an important role in explaining government policy in parliamentary committees, which means they are regularly exposed to the questions and interests of MPs, which then feeds back into the policymaking process.

Deputy ministers and especially directors, their deputies and unit heads also focus on coordination with lower levels of government as well as with administrative bodies outside the core structure of the ministries. For the Transport Ministry, this includes the road administration: for Education, the curators as well as local and regional administrative bodies; and so forth. Many of the major institutional reforms of the late 1990s, such as the regionalisation of public administration and the reform of the education system, have increased the requirements for the sectoral and inter-governmental coordination of ministerial staff¹⁸.

The role of the President
is limited

As a consequence, senior officials are subject to a number of different coordination needs, which can be compared to having multiple principals and, therefore, creates opportunities for the use of external demands to enhance internal discretion in the policymaking process. It is debatable the extent to which such multiple dependencies within the politico-administrative system have changed over recent years, and it is probably more appropriate to think in terms of cycles (cf. Raciborski/Wiatr 2005). Under the most recent PiS-led government, for example, there was an attempt to strengthen the Prime Minister's Office, while the Finance Ministry enjoyed less influence than it had previously. Moreover, the President came from the same party as the senior coalition partner. As a result, it is mainly the wide variety of coalition actors and the establishment of additional EU-related coordination bodies, which undermine government coherence.

The issue of multiple dependencies has been less affected by personnel politicisation than has the other danger zones that feature in the ministerial policymaking process. In fact, politicisation could conceivably be a means for integrating policymaking, in that commitment by senior officials to the governing parties' programme serves as the cement to hold the government apparatus together.

This, nevertheless, requires some central control over the appointment and dismissal of political appointees, which has never existed for deputy ministers and was abolished in 2006 for directors. In practice, the inclusion of deputy minister positions in coalition deals, the growing autonomy of deputy ministers to staff director positions, and the absence of any meaningful integrating factor at the centre, has carried government fragmentation into the ministries. The new post-2006 patterns of selecting personnel have, therefore, the potential to reinforce corruption risks that emerge from multiple dependencies in the policymaking process.

In addition, personnel turnover and deep politicisation have some more practical implications for the coordination of government policy. Frequent turnover at all senior levels down to deputy director, and even unit head, means officials need time to re-establish routine channels of cross-ministerial coordination and consultation. People, to put it plainly, simply do not know each other and phone books at the ministries are completely re-written after each change of government. As a consequence, government fragmentation and the corruption risks that emerge therefrom, are, at least temporarily, reinforced.

5.3. Internal planning and monitoring: muddling through the ministerial policymaking process

Internal planning, monitoring and coordination are at the centre of managing the policymaking process within the ministries. Lack of mechanisms for vertical and horizontal coordination, and lack of formalisation, implies that control remains largely informal, trust-based and dependent on personal interventions. As a consequence, large sections of the ministerial bureaucracy can easily run out of control and, therefore, provide opportunities for corruption. We have examined how ministers, deputy ministers and directors supervised their own staff and how in turn they related to their superiors. We have also explored the mechanisms for horizontal coordination, in order to identify how far policymaking within individual ministries is integrated and consistent with overarching policy goals.

5.3.1. Mechanisms for vertical control and coordination

From the very top to the bottom of the managerial ranks of the ministries, officials have significant discretion over the design of their internal control and coordination mechanisms. Unsurprisingly, internal control in the Polish ministerial bureaucracy is characterised by diversity of approach, structural instability and lack of consistency across time, ministries and even within ministries. Government

Government fragmentation
remains a problem

Vertical and horizontal
coordination

Too much hierarchy

regulation does not specify how ministries should coordinate and organise their affairs. Although the 1996 Government Act distinguishes policy departments and so-called services offices, ministers can decide how to structure chains of accountability, internal consultation and reporting requirements, as well as decision-making rules. The same applies to deputy ministers within their domains, and also directors.

As a result, internal control and coordination mechanisms are either not formalised, or are very broadly defined. At a minimum, they differ considerably from one body to another. The central coordinating mechanisms in most ministries are regular meetings between the minister and the deputy minister, which provide opportunities for the minister to communicate his programme, and the deputy to report back on what happens within the ministry. Formally, the minister is in charge and can take decisions unilaterally. In practice, it was striking how many ministers and deputy ministers referred to the need to have a majority in these 'board' meetings, or that unanimity was sought whenever possible. This pattern arguably reflects the imperatives of coalition government and the involvement of deputy ministers in coalition bargains, which turns the leadership of the ministries into micro-governments rather than bodies under the hierarchical control of the minister.

Meetings between ministers and deputy ministers are not necessarily scheduled for a particular time of the week, but experience from different ministries indicates that they are as often ad hoc as they are part of the weekly work pattern. Board or 'politburo' meetings (as they were sometimes jokingly referred to) are also largely restricted to the world of ministers, deputy ministers and the director general. In contrast, only a few ministers had regular meetings with department directors. The most frequent pattern is that the relevant department director would be invited to a board meeting to report on a particular policy proposal. This system means that ministers often know very little about what happens below deputy minister level. Arguably, their attention is directed towards other areas, such as cabinet, the party and parliament, but for policymaking, it means that the world of the minister is very small indeed.

Deputy ministers act
as 'gate-keepers'

Deputy ministers are not only the key policy-makers in the ministries, they are also the main link between the minister and the rest of the department with regard to the policymaking process. Deputy ministers, like ministers, are largely free to decide on how to control and coordinate the departments under their responsibility. The most common coordination pattern involves informal, ad hoc, face-to-face meetings between directors and deputy ministers. In some cases,

deputy ministers also invite deputy directors, but the efficiency of these meetings often depends on the number of people who sit down at the table. In some ministries, such as Regional Development, changes have been made to bring in deputies only when policies under their control are discussed.

Finally, directors control and coordinate their departments primarily on an informal, face-to-face basis. We were told several times, 'the door is always open.' In most cases, informal coordination and control was simply the way it had always been done and, therefore, there was not much reason for change. It was also pointed out that departments would sometimes be small and people would know each other well, either because officials had worked together for a long time or because they had joined the department together after a change of government. Formal meetings would not, therefore, fit the culture, which was based more on mutual trust and good inter-personal relations.

There are, of course, some important exceptions to this pattern of informality, which also reflect the diversity and inconsistency that characterise the management of the policymaking process. In some cases, directors try to have regular meetings with deputies and heads of units and formalise these in their departmental regulations; however, in practice, we have learned that this rule is often ignored. In other cases, directors establish more elaborate mechanisms of internal management and control, which often involve the use of IT-based tools. Here, directors would specify the action that staff would have to take, the objectives they would have to meet, and the product that they are required to deliver back to their director. In some of these cases, such as internal government audits, directors were virtually forced to elaborate more sophisticated and standardised procedures in order to control staff who work away from their office, since an open door policy would not work. In other cases, directors and deputy ministers would set up electronic management systems to rationalise their work. This has led, as one of the interviewees remarked, to the discovery of a strategic role for secretaries, who could start to take on an important monitoring role. What became clear in the interviews, was that the establishing of more sophisticated, as well as more standardised, control and coordination mechanisms is not simply a matter of job requirements, but is also dependent on the management skills of the senior official in question.

5.3.2. Mechanisms for integration and horizontal coordination

The picture of a relatively close, if informal, web of relationships concerning vertical coordination is much less obvious at the level of

Islands of innovative
management

A lack of horizontal coordination

horizontal coordination. The consequence is that ministerial control largely depends on the approach of deputy ministers towards their area of responsibility. As seen above, the main mechanism for horizontal coordination is the top-level board meetings of ministers and their deputy ministers.

Compared with a country like France, where the minister's cabinet is at the centre of ministerial coordination, such cabinets play only a minor coordinating role in Poland, in spite of their obvious coordination benefits (Kulesza/Barbasiewicz 2002). Similarly, the minister's office or secretariat rarely has a role in the coordination process beyond the distribution of documents. There is, therefore, no mechanism in place to integrate ministerial policy at the very top.

In some cases, such as the Ministry of Interior, the legal department has an important role in coordinating the policymaking process, either because legislative proposals and regulations need to be checked for legal validity, or because laws need to be drafted in the first place. The role of legal departments is often further strengthened by the fact that senior staff have many more years of experience than the staff in the policy departments, owing to their specialised legal knowledge. Evidence from most ministries suggests, however, that legal departments are rarely in a position to positively coordinate ministerial policy, set schedules or follow up programmes.

Directors General should play a more important role

Directors general can potentially take on much of the coordinating role within ministries, because their responsibility for the service departments brings them into routine contact with the policy departments. In some cases, they have indeed been the link between the minister and rest of his ministerial staff: For instance, during the Miller government, the director general in the Economy Ministry would transmit and follow up the minister's organisational and policy approach. In some cases, such as the current Health Ministry, the director general and his office have been instrumental in developing and running a management system for the entire ministry (not just the department), which allows for the horizontal coordination and continuous monitoring of the policymaking process. Similar attempts have been made in other ministries, such as Interior. Usually, however, the role of director general is more restricted, especially after the 2006 civil service reform, which reduced the director general's scope to shape the staffing of departments and, therefore, facilitate horizontal coordination.

Deputy ministers and their offices serve as another mechanism for horizontal coordination in the most recent government. In the

Education Ministry, a new deputy minister with a background in teaching management at a business school was tasked with establishing a coordination system based on performance budgeting, which would then work as a model for the government as a whole. The budget for 2008 is supposed to be run along both conventional lines and the new performance budgeting method, but it remains to be seen how far this technique can be made effective at individual ministry level. In the Education Ministry, there were not only technical problems, such as a simple lack of information, which prevented the smooth introduction of the new system, but there was also considerable reluctance on the part of most departments to accept a system that would inevitably involve more central control over their affairs. In practice, the performance budgeting system was not fully operational by the time the coalition broke down in summer 2007, and the Education Minister was dismissed.

Finally, there have been attempts in several ministries over the last two years to establish departments with a strategic role in policy development and analysis. These departments have a role in the preparation of broader policy initiatives and work partially like think-tanks within the ministerial remit, e.g., in areas of tax policy and transport policy. This new trend certainly reflects the desire to develop more coherent policies, initially within individual ministries; however, these departments are not (yet) policy coordinating bodies that can also delegate tasks, and monitor and chase up ministerial projects.

As a consequence, there are many different approaches to coordinating ministerial policy, which suggests both a considerable degree of inconsistency and structural instability over time and across ministries. On the whole, the main patterns that emerge from our analysis are, first, the dependence of control and coordination systems on the preferences and competence of individual senior officials and, second, a general lack of effective institutionalisation of horizontal coordination mechanisms capable of integrating the ministerial policymaking process. The result is that the ministerial policymaking process is usually internally fragmented; a trend reinforced by the imperatives of coalition government, which threatens to decouple parts of the policymaking process from the minister in charge.

There are only very few exceptions to this pattern. The attempt to introduce performance budgeting in the Education Ministry is one, and the introduction of IT-based management systems in the Health Ministry is another. In the past, there were also examples (such as in the Ministry of Labour and Social Policy, which was later merged with the Ministry of Economy), in which the minister coordinated through

Performance management
is used sometimes

Strategy departments
have been established

Structural instability
remains a problem

Ministerial coordination remains under-institutionalised

the deputy ministers, but also set up regular meetings with directors and deputy directors to communicate the overall policy of the ministry, which indicates the broader ramifications of policy initiatives and follow up developments. In a sense, the chief coordinator in this case was the minister himself.

Over time, this pattern of internal ministerial control and coordination has not changed dramatically. The period since 2005 stands out, in that the PiS-led government, individual ministers and many deputy ministers launched new initiatives to manage the ministerial policymaking process; however, these initiatives have so far been seldom effective, as inconsistency, instability and above all personalisation have remained characteristic features of the internal coordination of the policymaking processes. The corruption risks that emerge from the absence of institutionalised control and coordination mechanisms have, therefore, persisted, despite attempts to reduce them under the PiS-led governments.

5.3.3. Politicisation and the internal control and coordination of policymaking

Turnover creates structural instability

The impact of personnel politicisation is perhaps most visible at the level of control and coordination mechanisms within individual ministries. First, the large turnover in ministries contributes to structural instability and is often linked to a need for ministerial reorganisation in order to justify the dismissal of directors. Structural instabilities, however, are also evident at the level of management tools, in that many new senior officials, especially when recruited from outside the ministry, prefer to introduce a new approach to control and coordination; however, their departure from the ministry also means the end of the same initiative.

Politicisation leads to ad hoc governance

Second, the example from the Education Ministry outlined above reflects the broader dilemma of formal institution-building inside the ministries. New officials come to office, bringing with them many different approaches and almost certainly many good ideas for the coordination of policy, but the problem is that these solutions rarely reach a point at which they are dissociated from their designers. The ironic result is that attempts to build formal institutions end up in even more personalised forms of governance.

Third, this process has been reinforced by the recruitment of outsiders into the ministerial bureaucracy and the watering-down of the screening system over recent years; especially, since the 2006 civil service reform. This means that officials who were not nominated civil servants

at the time of their appointment would often require a considerable amount of time to familiarise themselves with the workings of their ministry, and the government more generally. When we asked our interviewees (both appointees with limited previous experience in public administration and highly experienced officials in the same ministry) how long it usually took to make a ministry work after far-reaching personnel changes. Most answers focused on 'one year.' This can be seen as a major loss, as governments are at least partially paralysed and unproductive for a considerable period of their existence¹⁹.

Fourth, a further factor that makes it difficult to institutionalise control and coordination mechanisms, is officials' expectation that their term in the ministerial bureaucracy is likely to be short. This can reduce the incentive to invest in new systems. Instead, officials fall back on ad hoc, personalised modes of coordination in order to get things done quickly, since formally institutionalised management systems inevitably require time to be developed, tested, refined and, above all, to bed in. Such time is not generally available to deputy ministers, or increasingly to directors and their deputies.

Finally, the politicisation of personnel policy has created an illusory sense of control over the policymaking process by ministers and their deputies under the centre-right governments. Personalised mechanisms of control and coordination do arguably have certain advantages, but they are also inherently limited, in that they struggle to cope with more complex coordination challenges, and especially those that involve issues outside one's department. Several of our interviewees suggested that the politicisation of the ministerial bureaucracy has created a kind of vicious circle, in which personnel politicisation further weakens control over the policymaking process, which in turn creates new demands for control by means of more appointments of trusted personnel. In other words, corruption risks in this danger zone have been further entrenched as a result of the personnel strategy pursued by the PiS-led governments.

5.4. External monitoring and policymaking: the limited effectiveness of existing fire-alarms

Internal control and monitoring requires complementary monitoring activities from outside the ministerial bureaucracy. We have argued above that 'fire-alarm' systems can help prevent the emergence of corruption risks in the ministerial bureaucracy. Effective fire-alarm systems require competition among interested groups, which provides an incentive for mutual monitoring in addition to monitoring the ministerial bureaucracy.

Politicisation creates an
illusory sense of control

Are there any
fire-alarm systems?

We have, therefore, conceptualised fire-alarm systems as a positive form of lobbying and, more generally, state-society interaction; nevertheless, the absence of fair competition among groups and the lack of transparency in the relationships between the ministerial bureaucracy and private or non-state interests can in fact lead to the emergence of further corruption risks. We have, therefore, examined the way in which ministerial officials usually interact with interest groups, and other non-state actors, and how far they were committed to concepts of openness and transparency in policymaking.

We found that officials clearly recognised the interaction between the ministerial bureaucracy and private interests as an area in which corruption risks can emerge all too easily. The high-profile corruption scandals of recent years, in particular, have made officials generally very sensitive to issues of lobbying, as well as to issues of transparency, as an important mechanism to prevent the impression of bias in policymaking, which could be associated with corruption.

A growing number of laws adopted over recent years have related to the interface between public administration and private interests. The most important for the present context include the 2005 Act on Lobbying and the 2001 Act on Freedom of Public Information. One could also add other types of regulation, such as the constitutional principles of free speech, freedom of association and the right to petition, as well as a number of sectoral regulations, such as tripartite arrangements between labour, business and the state in areas of social and economic policy (Jasiecki, no date).

These formal regulations are, however, not problem free, and have so far failed to establish conditions that would ensure fair competition among private actors and effective outside monitoring. The Lobbying Act, for example, requires ministries to publish their activities in advance in order to give interested parties a chance to submit their views. Ministries may also organise public hearings that are much like the public notice procedure familiar in many Scandinavian countries. In addition, professional lobbyists are officially required to register their details with the Interior Ministry before they can start their activities (with failure to do so resulting in an, arguably very small, fine).

While these regulations represent a step in the right direction, they remain incomplete and are too narrow. In particular, the definition of lobbying excludes most of the lobbying activities that take place in practice, as it applies only to professionals for whom lobbying is a paid activity. This has several consequences. First, competition between lobby groups is unfair, from a legal point of view, between those covered by the

The lobbying Act
remains ineffective

act and those who remain outside or are able to circumvent it. Second, the bulk of the lobbying activities remain effectively unregulated. For example, we were told in the Finance Ministry that only one single lobbyist was registered at the Interior Ministry.

Under-regulation has further consequences for the practice of dealing with private interests at individual ministry level. The Lobbying Act also requires that ministries establish additional regulations on how to deal with all forms of lobbying and how to approach issues of openness and transparency in policymaking. Ministries are, however, exposed to outside interests in very different ways. On the one hand, there are institutions such as UKIE, where some senior officials hardly ever meet any private interest groups or representatives of firms. Obviously, under these circumstances, corruption risks within this dimension cannot emerge in the first place.

On the other hand, there are ministries such as Health or the State Treasury, which are subject to intense lobbying from outside. In both cases, it is arguably very difficult from a practical point of view to establish a level playing field for private actors, which will enable effective outside monitoring. For instance, pharmaceutical companies possess different levels of resources, which affects the way they can influence the law-making process. Moreover, lobby groups in the pharma sector, as well as other sectors, tend to use all kinds of more or less subtle strategies to gain influence; such as, dinner invitations or sponsoring patient groups to create a public outcry, which in turn helps these firms promote their own products. In addition to lobbying by private interests, our interviewees indicated that much de facto lobbying occurs within the same policy sector by non-profit organisations and other administrative bodies. Schools, for example, would lobby for better equipment, and telecom regulators would make themselves the representatives of special private interests in order to push for legal changes.

Numerous initiatives have sought to reduce the risk of improper influence. In ministries such as Interior, it is the practice for staff to register with the director general all their contacts with lobbies and private interests. In other cases, ministries seek to create incentives for lobbyists to register officially and, thereby, give them preferential treatment, such as more and quicker access to information and decision-makers.

One important mechanism for reducing the exposure to corruption risks from lobbying has been a proactive approach to transparency. In some ministries, such as Health, contacts with lobbyists and the content of the meetings are placed on the ministry's web page. In fact, the degree

Application of the Lobbying
Act varies across ministries

General trend towards
transparency

of transparency goes beyond this, in that information on the content of discussions and decision-making processes is also placed on the web. The model approach of the Health Ministry may also be a reaction to the various high-profile corruption cases that occurred under Minister Lapinski during the period of the Miller government. In other sectors, such as Education and Environment, a number of mechanisms are in place, such as commissions and councils, which provide for the consultation of interested parties, from schools to environmental groups. In order to establish an effective fire-alarm system it is, therefore, clearly necessary to have in place more specific legal frameworks that take into account the characteristics of the given sector. Amending the Lobbying Act will, therefore, not be sufficient to minimise corruption risks from this type of mechanism.

Moreover, there was an underlying consensus among many interviewees that outside monitoring will only work if the media are effective in publicising improper behaviour within the ministerial bureaucracy. One interviewee went as far as to say that, in today's context, potentially corrupt officials will think twice because 'you do not want to see yourself on TV in the evening news, do you?', thus indicating that the attention given to corruption by the government has raised the importance of the issue and, therefore, the media's incentive to fulfil its role as a key outside monitor (cf. Rose-Ackerman 1999).

Fire-alarms remain
under-developed

In summary, the system for the external monitoring of the policymaking process remains under-developed, and vulnerability remains significant in terms of corruption at the level of the interactions between private interests and the ministerial bureaucracy; nevertheless, the general attention that has been given to the issue by the PiS-led governments, and the degree of sensitivity about it among many ministerial officials, offers groundwork for the successful upgrading of the external monitoring system and indicates that there is potential to reduce corruption risks in the future. The direction since 2005 has, therefore, been more positive in this corruption danger zone than in any of the other danger zones that appear in the process of managing the ministerial bureaucracy.

A good deal of caution is, however, necessary here, because the patterns of personnel management that have emerged since 2005, only partially support this conclusion. The greater personnel turnover and the deeper politicisation down to director and deputy director level was meant to reduce the risks of capture by breaking the informal ties and networks that allegedly existed between the ministerial bureaucracy and private interests. In the short term, this may well have worked as intended by the PiS-led governments. In fact, our interviewees even

suggested that the level of director, deputy director and even head of unit have traditionally been targeted much more by lobbying activities and questionable approaches than the most senior level of the ministry, owing to their lower media exposure. Deeper politicisation by the PiS-led governments does, therefore, appear to have been a move in the right direction; however, evidence from the interviews also indicates that inexperienced staff are more vulnerable to corruption, because they struggle to cope with the (often very sophisticated) pressures exerted from outside. After all, lobbying will not disappear because ministerial officials have been replaced. Rather, new lobbyists may appear and new officials will have to learn to deal with the existing lobbyists, to distinguish 'good' and 'bad' contacts, and to operate the formal rules that structure the external monitoring system.

While the PiS-led government's personnel strategy may have worked as a 'quick fix' to break the old, informal and opaque networks that may have existed between ministerial bureaucrats and private interests, it is not difficult to see that a strategy of politicisation does not per se reduce corruption risks that could emerge from lobbying and capture by private interests: As a strategy, deep politicisation does not address the mechanism that leads to corruption in this danger zone; i.e., it does nothing to create an effective system of outside monitoring by means of open competition between private interest groups. Instead, much as we argued in our discussion on the control and coordination of the policymaking process, the politicisation of personnel since 2005 may have reduced the prospects of successfully institutionalising a more effective fire-alarm system to prevent the emergence of corruption risks.

5.5. Information management and the policymaking process

Access to and the processing of information influences corruption in two respects: first, lack of information can lead to poor quality regulation, which in turn increases corruption risks; second, even if information is available, it can be used strategically by policy-makers to shift outcomes in particular directions or to justify outcomes that would otherwise have to be considered biased. We have examined the ways in which ministerial officials could gain access to expertise and more general information needed to perform their role in the preparation of public policies, and also the extent to which they apply management tools, such as regulatory impact assessments, which are conventionally assumed by international organisations and the EU to enhance the quality of public sector regulation.

How is expertise
managed?

5.5.1. Access to policymaking expertise

In relation to policymaking expertise, no regulations exist, beyond standard procurement rules, which would specifically structure the access of ministerial officials to outside experts or information. In a professional bureaucracy, the assumption is arguably that expertise should rest with the individual administrator; however, the rise to prominence of the information society has made this model largely untenable. Frequent reliance on different outside sources of expertise is, therefore, increasingly becoming a fact of life for any civil servant in today's world. In some cases, ministries recognise this development and have established regulations to deal with consulting and contracting-in outside experts. In the Regional Development Ministry, for example, a regulation was adopted that defines who is eligible to be an outside expert, who nominates them, when their terms begin and end, and how much they can be paid. The regulation emphasises transparency, in that projects that are eligible for outside advice first need to be advertised, and later the names of the experts used are listed on the ministry's web site. There is good reason to assume that the initiative for this regulation of access is related to the exposure of the Regional Development Ministry to EU influence and policies.

Expertise held by individuals is most important

In interviews, officials voiced concern about the availability of information and data necessary for the development of policies, but they were much less concerned about the availability of, and access to, expertise and skills. The most common source of expertise is actually the individual officeholder²⁰. Senior officials at all levels tend first to resort to the skills they acquired during their university education; alumni of the National School of Public Administration, in particular, are usually able to make use of their earlier studies while in office.

Many training activities

In addition, since the late 1990s, training initiatives have been established for senior officials, nominated civil servants and civil service employees. These training activities are to be expanded for civil servants, thanks to money from the European Social Fund. At director and deputy director level, the civil service department in the Prime Minister's Office is currently completing the training programme that was originally prepared by the Civil Service Office. On paper, directors general have some form of training for at least one day per month, which provides opportunities for upgrading skills. In practice, however, directors of all types have far less time to attend training sessions, and deputy ministers are not covered by these schemes. This implies that they have to rely exclusively on the expertise they have gained elsewhere. More recently, the Department of the State Staffing Pool has started to prepare training initiatives for high-ranking officials,

which take account of the fact that pre-training requirements have been downgraded as a result of the 2006 civil service reform.

The emphasis on the personal skills of officials implies that most of the policymaking expertise is provided in-house. This does not mean that the use of outside expertise is restricted to ministries such as Regional Development. Rather, officials would routinely consult with colleagues elsewhere in government or with personal contacts outside government. KSAP alumni, for instance, can command a wide network within the administration, which gives them quick access to expertise. Others would take advantage of their contacts from university or they would call up colleagues who have moved on from Warsaw to Brussels.

Where necessary, ministries would also buy in expertise from the private sector or from academia. University academics have traditionally played an important role in providing advice to government. More recent developments, however, point towards less, rather than more, input from academia. Moreover, private sector consultancies of various types are also providers of information. In the area of EU-related policy, law firms and other firms regularly appear as outside consultants. This points to the need for regulation.

Generally, the results of our interviews suggested that there was no developed market for policy expertise in Poland and no regulated system to structure the purchase of expertise from outside government. As there is a general worry among many ministerial officials that outside contacts can be misinterpreted as corrupt agent-client relations, there is much hesitation when it comes to buying in expertise. As a result, the current position on access to expertise suggests that corruption risks emerge from both a lack of regulation in the area and often a lack of capacity to develop better policies. This situation has not changed much since 2005, unless we consider that the greater caution among officials over the use of outside information sources is an indicator of reduced vulnerability.

5.5.2. Improved information management through regulatory impact assessments?

Impact assessments have been promoted by international organisations and the EU for the last decade. In the mid 1990s, the OECD launched a regulatory quality initiative, which involved techniques to simplify, reduce and improve the quality of public sector regulation. More recently, a number of initiatives have appeared that fall within the wider category of quality management tools in public administration. They include the Common Assessment Framework and the adaptation

Access to expertise from outside is under-regulated

Are impact assessments used?

of tools such as ISO9000 to public organisations (Buchacz/Wysocki 2003). In particular, the EU Commission promotes the so-called Better Regulation agenda, which includes mechanisms to strengthen public participation and consultation in policymaking, simplify regulations and conduct impact assessments that examine the social, economic and environmental risks involved in policy proposals. Impact assessments could, therefore, be an important instrument in the reduction of corruption risks, because they strengthen the informational basis of legislation and the inclusiveness (and thus legitimacy) of proposals. In many respects, therefore, they cut across the issues discussed above.

Formally, the Polish government requires an impact assessment for all proposed legislation, which should be attached when any proposal is submitted to Parliament. This regulation was adopted in 2001 following the regulatory framework assessments conducted by the OECD (OECD 2002). More recently, the Polish government has launched an initiative to incorporate the EU Better Regulation agenda into the policymaking process (SIGMA 2007). This initiative is based in the Economy Ministry and, in principle, each ministry should have one person responsible as a partner for the preparation of the Better Regulation agenda.

Virtually no systematic impact assessments

In practice, however, much less attention is paid to impact assessments, and in fact most officials did not even know about the recent Better Regulation initiative. In most cases, officials are basically required to tick a few boxes that are attached to the legislative proposals submitted to Parliament. No justification is usually offered for the choices and no methodology is applied to run systematic impact assessments. In only a few cases are ministries beginning to look into the agenda for the development of better regulation (e.g., the Transport Ministry). Support for the systematic incorporation of impact assessments in the future should not be taken for granted. Some officials clearly welcomed the idea of using new tools to develop better policies; however, in the interviews, we also came across outright opposition to the prospect of 'regulating the policymaking process even further.' This opposition to the use of impact assessment methodologies underlines the tension between potentially better informed policies, but demonstrates less discretion over the development of policy proposals.

Impact assessments remain informal

This is not to say that the very idea of impact assessments is not applied at all. In some cases, officials would simply develop their own criteria for the assessment of different impacts. More common, however, is the preparation of impact assessments for the sake of diffusing criticism from the media and MPs during the legislative process. Even during the mid 1990s, it was relatively common for deputy ministers and directors to provide impact-assessment-like

justifications for their proposals, in anticipation of questions during the debate in Parliament.

Impact assessments are still a new management tool in the Polish policymaking process, and it is, therefore, too early to expect much; however, their effective application is constrained by the lack of established mechanisms to gain access to outside expertise as well as the lack of constructive consultation with stakeholders. In other settings, such as Austria or the Scandinavian countries, impact assessments can build on a legacy of consultation with social partners and active civil society involvement in the policymaking process (Biegelbauer/Mayer 2007). Similarly, in the UK, it has become much more common to incorporate outside advice and interests in the preparation of policies. These conditions are evidently not present in Poland.

The difficulties of institutionalising a modern system of information and quality management in the ministerial bureaucracy can also be traced, to a significant extent, to the patterns of personnel politicisation in Poland. We should recognise that politicisation is not necessarily a bad thing when viewed through the lens of expertise and information management. The recruitment of outsiders, in particular, is often justified on the grounds of bringing new expertise to the ministerial bureaucracy. This is often also much appreciated by permanent staff and it should not be assumed that there is a rift between permanent civil servants and political appointees in the Polish ministries; nevertheless, the rider that is usually added concerns the level and type of expertise that new recruits possess. As the number of political appointees has grown, officials often bring subject expertise and political expertise, in the sense of political bargaining and knowing their way around within their party. From our interviews it transpires that problems often arise from a lack of legal knowledge and managerial experience. The scaling down of the screening system in Poland over the last few years is likely to even further strain this dimension of the policymaking process.

The far-reaching turnover of staff over recent years also affects the accumulation of expertise in the ministries, as although people often learn quickly, their expertise is mostly lost to the ministries after they leave office. This is especially problematic in the Polish case, because policymaking expertise rests largely with individual administrators, and the accumulation of expertise is, therefore, often limited to lower level clerks.

Politicisation goes at the
expense of expertise

More investment in impact
assessment is needed

Moreover, both the weakening of the screening system and the deep politicisation of the ministries also create obstacles for the application of regulatory impact assessments. Poland does not yet have much experience with this form of quality management in public administration, but one reason for the slow take-up of impact assessments can also be found in the patterns of managing ministerial personnel. After all, officials need to learn the methods of policy analysis and impact assessment first, and large staff turnover implies potentially high training costs for officials who join the ministries after changes of government.

Impact assessments are an instrument with the potential to reduce future corruption risks. Our research has shown that, for now, it is an instrument that is not effectively applied in Poland. The situation, however, has not deteriorated in this corruption danger zone when compared with the pre-2005 period. In fact, the initiatives of the centre-right governments are welcome in this respect. Personnel politicisation may have contributed to slow progress in this area of preventing corruption risks, but it must also be recognised that it is not the only determinant for successfully managing expertise and information in the policymaking process²¹.

In conclusion, the analysis in this part has demonstrated that, at the dimension of managing the policymaking process, corruption risks have largely persisted over the last few years. Recent governments have tried to establish new formal-legal frameworks and, especially, the PiS-led governments that came to office in 2005, paid a great deal of attention to the issue of corruption. In practice, however, our research indicates that many of the new rules have not really taken root. Our discussion has further shown that the personnel strategy of the PiS-led governments was one of the main reasons for the difficulty in institutionalising the policymaking process at the level of individual ministries. In particular, the patterns of growing politicisation that have been evident for all four corruption danger zones inherent in the management of personnel, which were analysed in the previous part, have contradicted many of the other initiatives taken to improve the management of the policymaking process. As a consequence, we have to conclude that the management of the ministerial bureaucracy remains subject to important corruption risks. In fact, the direction since 2005/2006 suggests that corruption risks have increased, even though the PiS-led governments have implemented major efforts to curb corruption in the public sector.

6. Conclusion: Corruption risks and the management of the ministerial bureaucracy in Poland

This report has examined the corruption risks inherent in the management of the ministerial bureaucracy in Poland. It has concentrated on the effect that the politicisation of personnel policy has on high-level corruption. When the first PiS-led government came to office in 2005, it deliberately replaced large numbers of personnel in the ministerial bureaucracy. This strategy was meant to eliminate networks of ministerial bureaucrats and outside interests, which were seen to be among the main causes of corruption in post-communist Poland.

The findings of this research report have cast doubt on the effectiveness of this strategy to fight corruption. In our approach to the study of corruption, we distinguished a range of mechanisms of corruption, which have helped us to identify various danger zones in the management of the ministerial bureaucracy. From this point of view, our research acknowledges that the strategy of deliberately politicising ministerial personnel may have indeed broken some of the allegedly corrupt networks that existed around the ministerial bureaucracy in Poland; nevertheless, we have also shown that the same strategy has created many new corruption risks.

The strategy adopted by the PiS-governments after 2005 increased the personalisation of personnel management; it reinforced the outside (especially political) dependencies of ministerial officials; it reduced the capacity of the personnel system to screen out potentially dishonest and incompetent officials; and it reinforced the career uncertainties of ministerial personnel, further reducing their incentive to build reputations of honesty and competence. The price for the attempt to break some of the old-boy networks may, therefore, have been very high.

We have argued that the main effect of personnel politicisation on high-level corruption occurs through the management of the policymaking process; in particular, the link between the law-making process implemented by ministerial bureaucrats and its exposure to improper influence (state capture). Our research has demonstrated that the management of the policymaking process within ministries is subject to a number of corruption risks. In particular, we found that the politicisation of ministerial personnel has hampered the effective

Limited effectiveness of PiS
anti-corruption strategy

Corruption risks
have increased

Politicisation
de-institutionalises the
policy-making process

institutionalisation of the policymaking process within the ministerial bureaucracy.

Over recent years there have been many efforts to improve the quality of policymaking. Formal regulations govern the allocation of responsibilities within the ministries, the coordination of the policymaking process, internal ministerial control mechanisms, relationships with outside interests and the use of expertise and information in policymaking. We found, however, that these formal rules that underpin the policymaking process are often not properly applied. As a consequence, policymaking in the ministerial bureaucracy in Poland is characterised by inconsistencies, structural instability and a general preference for informal, personalised forms of coordination and control. Assuming that the PiS-led governments were genuine in their intention to fight corruption at the level of the ministerial bureaucracy, our research concludes that their personnel strategy has had unintended consequences. It has created more new corruption risks than it has eliminated old ones.

Uncertain relation between corruption risks and actual corruption

It is arguably very difficult to verify empirically the extent to which the government's personnel strategy has also affected the actual corruption record during the PiS-led governments. Methodologically, it is impossible to trace the final step in the causal chain that leads from the appointment of personnel through the management of the policymaking process to the actual corrupt exchange. Moreover, it is difficult to say with any certainty how long it might take for the personnel strategy of politicisation to develop its full effect in the form of more high-level corruption²². In fact, it can be expected that many of the (unwanted) consequences of the PiS-led approach to personnel policy and policymaking have not yet become visible. At the same time, our research has found a striking correlation between the apparently deteriorating corruption record in Poland, on the one hand, and the patterns of managing the ministerial bureaucracy, on the other hand.

A number of caveats should be acknowledged. Corruption risks did not suddenly emerge under the PiS-led governments. In particular, the SLD-led governments (2001-05) started to reduce the ministerial bureaucracy's capacity to contain risks of high-level corruption, and the consequences became all too evident via the many corruption scandals that emerged while they were in power. The personnel policy approach of PiS reflects continuity as well as the emergence of a new pattern of politicisation, through the capture of the state apparatus by the centre-right parties.

It is also important to recognise that purging the ministerial bureaucracy does not necessarily produce more corruption risks in the law-making process. Instead, our approach to studying corruption demonstrates that there are several mechanisms at work when testing the ministerial bureaucracy for corruption vulnerabilities. If the large-scale substitution of personnel is the instrument of choice, then governments need to adopt complementary measures, such as the development of the screening capacity and the career structure in order to compensate/soften emerging corruption risks. Without these additional measures, even the most well-intended reforms are destined to fail, which in turn, reinforces the prospect that perceptions of widespread high-level corruption will increasingly be matched by reality.

Endnotes

- ¹ We would like to thank Joanna Kamińska for research assistance on this project and Julia Michalak and Martyna Młynarska for interpretation during the interviews.
- ² For the full text, please see <http://www.pis.org.pl/article.php?id=270>
- ³ A similar logic of separated systems could be applied to countries such as the UK and New Zealand, which have implemented new public management reform including the establishment of executive agencies and independent regulatory agencies.
- ⁴ www.demstar.dk
- ⁵ <http://info.worldbank.org/governance/wgi2007/>
- ⁶ We assume here that appointments made within the first twelve months after a change of government can be considered political. This reflects the debates on the politicization of the civil service in Western democracies (Peters/Pierre 2004).
- ⁷ The number of appointments are own compilations based on monthly reports (*przeгляд rządowy*) that were published by the Prime Minister's Chancellery.
- ⁸ UKIE, for instance, underwent more turnover in 2004 when Poland joined the EU and many officials had the opportunity to go to Brussels. Yet, the EU-related ministries such as UKIE and the Regional Development Ministry can generally be regarded as islands of professionalism in a sea of an otherwise far more politicised government apparatus.
- ⁹ This is not to say that the formal-legal basis was watertight from the viewpoint of corruption risks before 2001. In particular before the implementation of the 1999 civil service law, there was the potential for much deeper politicization of the ministerial bureaucracy than today because the absence of a valid civil service law also meant the lack of a definition of a corps of permanent, non-political civil servants. For a discussion of the pre-1999 civil service reform attempts, see Mikulowski (2004).
- ¹⁰ This view differs from much of the reporting in the news media, which emphasises recruitment through party channels, and interviews with outside observers (academics and former ministers), who tend to identify more turnover and more recruitment of outsiders at all levels in the ministry down to the head of unit level. By contrast, officials in the ministries who are arguably closest to the actual personnel changes, tend to identify many more promotions and reshuffles within and around ministries.
- ¹¹ The 2001 amendment of the civil service law received considerable criticism from the EU Commission and the SIGMA-OECD group (SIGMA 2003). For discussion of the implications of EU accession for the Polish civil service, see Czaputowicz (2002).

- ¹² It should be recognised that not all members are registered in the state staffing pool. The register is still under construction and by June 2007, 4000 persons were registered but it is unlikely that the full size of 100k will ever be reached.
- ¹³ Today, the rules of the probationary period and the qualification and examination procedure are still in place for officials who want to gain a nomination to the civil service. Moreover, management practice in many departments suggests that directors design often demanding requirements and tests in order to screen and select the specialists for their departments. This finding is positive, in that screening is often taken seriously for the lower level of the ministries. The collapse of the screening capacity discussed here is therefore most relevant for the senior positions.
- ¹⁴ Kudrycka (1999) discusses a range of other important regulations that influence the incentives for political officials and civil servants to build reputations of honesty and ethical behaviour in public office.
- ¹⁵ The average experience of the MPs after the formation of the 2005 Parliament stood at only 2.8 years.
- ¹⁶ For a discussion of the decentralisation reforms in Poland, see Kulesza (2002) and Emilewicz/Wołek (2002)
- ¹⁷ For an analysis of the cabinet decision-making process, see Rydlewski (2002).
- ¹⁸ For a discussion of coordination challenges, problems of accountability and interest group capture that have arisen from the administrative reforms in the 1990s and the reforms that served to prepare EU accession, see Hausner et al (2000).
- ¹⁹ Note that the Ministries of Education and Labour were subject to major personnel turnover in the autumn of 2005, in the middle of 2006, and then again in the autumn of 2007 and in the case of some officials probably twice in a few months after the breakdown of the coalition and then again after the formation of the new government. It is easy to imagine that it is virtually impossible to engage in any constructive policy-making under these conditions.
- ²⁰ Kudrycka (2003) points out the importance of investing in the skills of civil servants for the development of public administration capacity and the overall quality of public sector governance in Central and Eastern Europe.
- ²¹ See Hausner/Mazur (no date) on a list of key determinants that influence the quality of governance in Poland.
- ²² Kosewski (2002) presents a micro-level investigation of the conditions under which public officials may enter corrupt relations. He also tries to get as close as possible to the end of the causal chain that ultimately leads to corruption in the bureaucracy but, like our research, cannot investigate the occurrence of corruption itself.

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