

Session 3:

Civil servants and politicians in European and international perspective

Friday, 5 April 2013: 16.15-17.30

Professor Dr John Halligan, ANZSOG Institute for Governance, University of Canberra, Australia:

Changing roles and relationships between politicians and civil servants

The public service's relationships with politicians in 2013 in Anglophone countries would be hard to recognise by observers in the 1980s and impossible to envisage. What was understood then as basic tenets of the relationship are either gone, been decisively modified or exist in a fragile, contested environment. In the three decades between these dates, a high level of contestation emerged as politicians exploited unused powers to direct and influence, while observers critiqued the expansions of executive power. Did this foreshadow the end of Whitehall (Campbell and Wilson 1995; Page 2010) or was it being reinvented for a different era? Does Aucoin's (2008) diagnosis of the emergence of 'new political governance' portend the deterioration of public services?

The core argument and analysis is about the breakdown in long-held norms that regulated the relationship. An extended period of relative stability in which the permanent component of the relationship prevailed was replaced by one of relative instability – depending on the country – under the dominance of the political executive and short-term leaders.

What has changed that is critical to the relationship? Three core elements can be defined in the literature of political executives and civil services: ministerial resources and their potential for extending political influence; the character of the appointments to the higher civil service (and in the Anglophone case, appointments, tenure and oversight of the senior public service); and the roles of ministers and the senior public service (and their relative dependence on politicians), which includes both specific roles and general positioning of the public service.

The four countries – Australia, Canada, New Zealand and the United Kingdom – have shared an administrative tradition and practice (Halligan 2011), yet each has moved significantly from a traditional political–bureaucratic relationship while displaying distinctive approaches to the handling of the change. This paper examines different ways of defining and engaging the relationship, the different options used by political executives for exercising direct influence on the public service and securing recognition of their preferences and the long-term impact on the character of the relationship. Finally, the developments in the Anglophone group will be related to patterns of change in the relationship between politicians and civil servants in European countries.

Professor Dr Zoran Lončar, Faculty of Law, University of Novi Sad, Serbia:

Ministerial accountability: regulation and practical issues

One of the main demands for the legal regulation of the ministerial function is to establish an adequate system of ministerial responsibility. Specificities of ministerial function are such that require the issue of ministerial responsibility to be regulated in a special way. In terms of responsibility for their function, the ministers differ from each other, not only from the holders of other governmental functions, but also from all those who work in the administration. Specificities of ministerial function require special responsibility regime. Therefore, in most

modern countries responsibility of ministers is usually stipulated by special regulations. Regardless of the different solutions in terms of modes of regulation of ministerial responsibility, the responsibility of ministers everywhere appears as a special and complex legal institution, consisted of different (sub)types of responsibility subject to different legal regimes. Successful creation of legal prerequisites for the exercise of ministerial functions in a legal system depends on how well this institution has been legally regulated.

In addition to the establishment of an adequate legal regime, a number of important practical issues are relevant for an effective exercise of ministerial responsibility, such as the mode of operation of the political system, the political composition of the government and the executive branch, the level of development of the party system, the degree of factual independence of the judicial system, the importance of independent national institutions, level of development of the media, as well as the power and influence of public opinion, etc. Only by studying all aforementioned issues one may understand the functioning of the institution of ministerial responsibility in every particular legal system. Therefore, in addition to pointing out the different methods of legal regulation of this institution, the paper also tackles practical issues that have proven essential for successful implementation of ministerial responsibility, primarily on the basis of decades of experience of the functioning of this institution in the legal system of the Republic of Serbia.