

Europeanizing from the Centre? Executive Configurations and Transposition of Community Legislation in Poland

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Abstract

This paper seeks to explain cross-temporal variation in the transposition of Community legislation in Poland between 1997 and 2001. Transposition paths are linked to institutional factors that facilitate or prohibit change; but - in contrast to the existing conceptualizations - this paper focuses on the configurations of the national executive. The principal finding is that a major upward shift in the pattern of transposition in 2000 was correlated with a far-reaching centralization of authority in the executive. Internally, the core executive increased its powers through (i) strong leadership from the prime minister and the minister for European affairs, (ii) reinforced horizontal and hierarchical coordination mechanisms, and (iii) capacity to undertake regulatory management. In its relationship with parliament the executive won extensive control over legislative time and agenda through (i) cohesive support from major political parties, (ii) monopoly of legislative initiative, and (iii) restricting of parliamentary amending powers.

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Introduction

There are numerous studies that examine domestic implementation of the Community law in existing EU member states (Azzi 2000, Heritier, et al. 2001, Knill and Lenschow 1998a, Mbaye 2001, Schwarze, et al. 1990, Siedentopf and Ziller 1988). Their key objective is to determine factors that facilitate or impede transposition and application of supranational law at domestic level. Similar concerns have recently become relevant for candidate countries in Central and Eastern Europe (CEE). Yet, few empirical enquiries exist into transposition of the Community legislation in these prospective member states.

This paper aims to address this lacuna by examining cross-temporal variation in the paths of transposition in Poland. In doing so, it first maps the process of transposition between 1997 and 2001. Second, it reviews existing theoretical explanations and formulates its own hypothesis regarding the determinants of the transposition path. Third, it tests the hypothesis against empirical evidence from changes in the power relations within the core executive and between executive and parliament.

The principal finding is that a major upward shift in the pattern of transposition in 2000 was correlated with a far-reaching centralization of authority in the executive. Internally, the core executive increased its powers through (i) strong leadership from the prime minister and the minister for European affairs, (ii) reinforced horizontal and hierarchical coordination mechanisms, and (iii) capacity to undertake regulatory management. In its relationship with parliament the executive won extensive control over legislative time and agenda through (i) cohesive support from major political parties, (ii) monopoly of legislative initiative, and (iii) restricting of parliamentary amending powers.

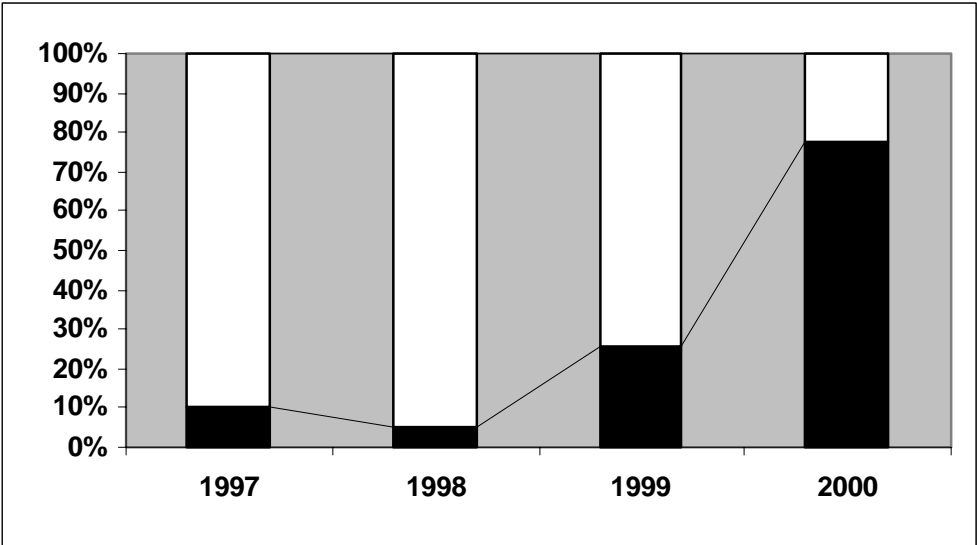
Transposition Paths 1997-2001

In mapping the transposition path this paper focuses on the extent to which transposition commitments undertaken by the Polish government were complied with. In doing so, it establishes a connection with numerous studies on the 'transposition deficit' in the existing EU member states (Borzal 2001, Graver 2002, Sverdrup 2002). In the present context, this variable is operationalized by relating the number of Polish implementing laws envisaged for adoption in a given year to the actual number of such measures adopted that year. Admittedly, the focus on transposition commitments is not without problems. Their credibility may be undermined by strategic games played both within the Polish government and between the Polish government and the European Commission or the EU member states. Nevertheless such commitments do bind the government and, having been publicized, influence the domestic assessment of its performance.

Between 1997 and 2001 the Polish government undertook transposition commitments mainly within the framework of global transposition strategies. In July 1997 the cabinet adopted an action plan for the adoption of the Community directives listed in the European Commission's Single Market White Paper. In June 1998 this plan was replaced by a National Programme for the Adoption of the Acquis (NPAA), which set out a timetable for achieving adaptational priorities resulting from the Accession Partnership. The NPAA was subsequently revised on an annual basis (1999, 2000, 2001). An analysis conducted by the author reveals that the extent to which the Polish government complied with deadlines contained in these

programmes varied over time*. See Figure 1. In 1997-1998 the Polish government only marginally addressed its transposition commitments. Out of 10 parliamentary acts scheduled for adoption in 1997 only one was adopted by the cabinet. The score for 1998 was also fairly low and stood at 5 per cent. In 1999 seven laws out of scheduled 27 were submitted to parliament (25 per cent). Although this was a slight improvement on the 1998 figures, the overall result was still rather low. It was, however, in 2000 that a major upward shift occurred in the extent to which commitments were met. Out of 36 measures envisaged for adoption 28 were indeed adopted (a score of 77 per cent).

FIGURE 1
Compliance with Transposition Commitments 1997-2001



Source: own compilation

This pattern is confirmed by qualitative accounts. Already in mid 1998 there were signs that the government was not keeping to its transposition commitments. In August that year the supreme audit office identified major transposition delays and appealed to the prime minister to remedy these (NIK 1998). The European Commission's Progress Report published in autumn 1998 concluded that Poland had a mixed record in meeting transposition priorities (EUROPEAN COMMISSION 1998). In April 1999 the EU representatives - meeting with the Polish government at the 7th Association Committee - made it clear that serious delays persisted in transposition, in particular with regard to environment, technical standardization, state aids, regional policy (Internal Document no 4 1999). The first internal review of the NPAA, conducted by the Polish authorities in spring 1999, confirmed serious transposition hold-ups (Apanowicz 1999b, Apanowicz 1999a). Such low capacity to translate commitments into action persisted throughout 1999. In June that year, in a bid to revive the accession negotiations, the Polish foreign minister promised at an intergovernmental conference in Luxembourg that transposing legislation in nine key areas would be submitted to parliament

The analysis focused on the extent to which commitments to submit transposing legislation to parliament were complied with. I have used the data contained in four national programmes but excluded the following measures: (i) parliamentary acts with no deadlines, (ii) acts which have been passed before the date of the programme, (iii) acts with deadlines dependent on an external event (e.g. economic situation), (iv) acts which were included in the preceding programmes. To be selected an act had to be clearly identified by name and deadline. I have further narrowed down the selection by focusing on implementing measures within the responsibility of nine key ministries and central agencies. These are: Ministry of Finance, Economics, Agriculture, Environment, Labour, Transport, Health, Competitions Office, and Patents Office.

by the end of July (Internal Document no 3 1999). However, in September that year these commitments remained only very partially fulfilled (Apanowicz and Bielecki 1999). The transposition deadlock was confirmed by the Commission's second progress report published in November 1999, which emphasized that the Polish government had only to a limited extent addressed short-term priorities under the accession partnership (EUROPEAN COMMISSION 1999).

A major change in the extent to which commitments were complied with occurred in 2000. In April 2000, together with the third revision of the NPAA, the government announced a list of 181 transposing instruments to be adopted until October 2001. Already in autumn that year it was clear that this time transposition commitments were indeed kept. The European Commission's 2000 progress report confirmed a marked acceleration in the adoption of the *acquis* (EUROPEAN COMMISSION 2000b). Between June 2000 and October 2001 the government submitted to parliament all drafts from the list, 85 per cent of which were adopted by the parliament (UKIE 2001).

To summarize, between 1997 and 2001, the extent to which the Polish government complied with its transposition commitments varied over time. In 1997-1999 it addressed such commitments only to a very limited extent. Some slight improvement was recorded in 1999 but the translation of commitments into action was still problematic. In 2000-2001 a major breakthrough occurred. Three fourths of all scheduled legislation was adopted by the government and passed by the parliament. Against this background, this paper seeks to explain such cross-temporal variation in the transposition paths.

Explaining Variation in Patterns of Transposition

The literature provides three broad types of explanations on what facilitates or impedes transposition of Community law at domestic level. These are: (i) policy legacies, (ii) pressure from external and internal actors, and (iii) domestic political institutions. Naturally, these explanatory hypotheses are not mutually exclusive. Indeed, recent attempts have been made to systematically incorporate all three into a single theoretical model (Borzal 2000, Dyson and Goetz 2002 forthcoming, Schmidt 2001).

The policy legacies approach argues that transposition/implementation is contingent on the degree of 'fit' or congruence between European policy and domestic arrangements, in particular in terms of regulatory structures, styles and instruments (Knill 1998b, Knill 1999a, Knill 2001, Knill and Lenschow 2001, Knill and Lenschow 1998a). Transposition patterns are thus expected to vary depending on the level of compatibility. In a more dynamic perspective, transposition will be smoother where a member state has succeeded in 'uploading' its own domestic policy solution to the EU level (Heritier, et al. 1996). Although this approach is fairly intuitive, it is best placed for explaining cases of extremely high or low misfit. In (most numerous) cases of medium compatibility it holds more limited explanatory power. Most recently, Heritier and Knill have concluded a cross-country comparison of the implementation of the EU transport policy by stating that 'the congruence or incongruence of European and national arrangements [...] can neither fully account for the varying degrees nor the directions of domestic adjustment patterns' (Heritier and Knill 2001, p. 288).

A second explanation emphasizes the role of external and domestic actors in shaping transposition paths. The external actor approach, originating from international relations,

underscore the monitoring function of the European Commission and the European Court of Justice (Azzi 2000, Mendrinou 1996, Peters 1997, Snyder 1993). In relation to candidate countries in Central and Eastern Europe (CEE), similar arguments are advanced with reference to the conditionalities attached by the European Union to induce and coerce these states to transpose European legislation (Grabbe 2001). The domestic actor approach contends that EU policies may lead to major changes in domestic opportunity structures. The transposition and implementation of Community legislation may run with or against the preferences of key social, economic and political actors. Thus, implementation paths vary depending on the extent to which domestic actors mobilize for or against such Community legislation (Borzel 2000).

Both external and domestic pressures, however, are always mediated by the domestic political institutions, which constitute a third type of explanation. This approach links transposition paths to the characteristics of the institutional setting within which the Community legislation is transposed. It underscores the existence of multiple veto points (Haverland 2000) and the availability of formal institutional resources (Graver 2002, Ibanez 1999, Siedentopf and Ziller 1988). Legal adaptation patterns are also linked to the 'reform capacity' of political institutions which is determined by (i) configuration of executive leadership (unitary/federal states, party competition, judicial review, interest intermediation, ministerial autonomy), (ii) institutional entrenchment of administrative structures (constitutional regimes, legalism, administrative law, fragmented or concentrated organizations, centralized or decentralized organizations), and (iii) influence of bureaucrats (dependence on outside advice, politicization of bureaucracy, bureaucratization of politicians) (Heritier and Knill 2001, Knill 2001). Similarly, in Central and Eastern Europe (CEE), a major emphasis is placed on the 'administrative capacity' to apply the *acquis* (Nicolaidis 1999, Nunberg 1999).

This paper pursues this last approach. But in doing so, it departs from the existing conceptualizations of the institutional variables. Designed chiefly for cross-country studies, they offer only limited theoretical assistance to research on short-range cross-temporal variation in transposition patterns (but see Dimitrakopoulos 2001, Hine 1992 for notable exceptions). This paper replaces such macroscopic formulations with a focus on the configurations of the executive. This choice is guided by two principal considerations. First, there is a general agreement that transposition of Community legislation is an executive-driven process. This seems to be even more pronounced in CEE, where executives benefit from an extensive system of linkages to the EU level (see for example Lippert, et al. 2001). If this is the case it seems legitimate to assume a significant impact of the way in which a national executive is configured on transposition paths. Second, a focus on the executive in the study of transposition in Poland is guided by the evidence of major shortcomings in the effectiveness of the CEE governments in developing and implementing public policies (Goetz and Margetts 1999, Nunberg 1999, Verheijen and Coombes 1998). Naturally, deficiencies in executive capacity are not unknown to the existing EU member states, but the problem may have a more pervasive impact on transposition of the Community legislation in such countries as Poland.

The literature on the national executives offers a wide array of theoretical propositions with interesting implications for national transposition patterns (Peters, et al. 2000, Weller, et al. 1997, Wright and Hayward 2000). Its most crucial argument is that growing sectoralization, budgetary pressures and cross-cutting nature of the policy agenda have underscored the importance of strong and effective centres of government (Peters, et al. 2000, Weller, et al. 1997, Wright and Hayward 2000). It is claimed that 'over the last thirty to forty years there

has been a steady movement towards the reinforcement of the political core executive in most advanced industrial countries and [...] within the core executive, there has been an increasing centralization of authority around the person of the chief executive - President, Prime Minister or both' (Peters, et al. 2000, p. 7). This argument presupposes a strong positive correlation between the success of policy reforms and centralization of authority in the executive (Boston 1992, Brusis and Dimitrov 2001). A more contextualized proposition holds that strong centres (core executives) tend to facilitate radical policy change, whereas weaker centres entail a more incremental pattern of change (Lindquist 1999 but see also Stark and Bruszt 1998).

In the present context, the 'strong centre' hypothesis would suggest that, if radical policy change is required during the transposition of the Community legislation, timely transposition would be the more likely, the greater the centralization of authority within the executive. Given that approximation of laws in Poland entailed a radical overhaul of almost all policy fields, this paper hypothesizes that a major upward shift in the pattern of transposition in 2000 was correlated with a higher centralization of authority within the executive. In line with existing accounts (most notably Wright and Hayward 2000) such centralization is posited to occur under the following five conditions:

- *prime ministerial leadership*. The prime minister commands sufficient political and organizational resources to exercise political leadership, and chooses to harness such resources in the support of the transposition process;
- *ministerial leadership*. There exists an identifiable and authoritative lead coordinator (personal or institutional) with sufficient political and organizational resources to perform a coordination role;
- *hierarchical coordination*. The centre enjoys sufficient formal and informal authority to engage in hierarchical coordination defined as the ability to arbitrate and settle conflicts between the actors involved;
- *regulatory management*. The centre is capable of mobilizing required legal expertise to ensure 'good' legal drafting and high regulatory quality;
- *political management*. The centre enjoys sufficient political and organizational resources to ensure continuing political support for the transposition process from political parties as well as domestic social and economic actors.

Executive Capacity

This section examines the relationship between the paths of transposition and changes in the power relations (i) within the executive and (ii) between the executive and parliament.

(i) The Core in Check

Internal Executive Configurations

Between 1997 and 1999 the Polish core executive lacked sufficient resources to effectively direct, coordinate and advise line ministries in the transposition process. It was held in check most notably by (i) weak political leadership from the prime minister and the minister for European affairs, (ii) high internal fragmentation, and (iii) limited capacities to undertake regulatory management.

I.

The centre's leadership was impaired by the lack of a political champion in European affairs within the Buzek cabinet. The prime minister had little experience in foreign affairs and chose to focus on domestic policy where his government launched ambitious social and economic reforms (interview July 2002). His limited interest in legal adaptation also stemmed from personal scepticism about relative benefits of the association process under the Europe Agreement (interview July 2002). In addition, Buzek's general position was undermined by coalition dynamics and relatively weak political stature. Having no independent power base, the prime minister was frequently held hostage by deals struck between the leader of the Solidarity Electoral Action (AWS) and Leszek Balcerowicz, deputy prime minister and a leader of the AWS's coalition partner, the Freedom Union (UW) (see Rydlewski 2002, Zubek 2001). In European affairs, his manoeuvring space was further constrained by Euro-sceptic factions within the governing coalition. Under pressure from the AWS, Buzek appointed Ryszard Czarnecki, a full cabinet minister, to chair a key European Integration Committee (KIE) and to head its permanent secretariat (UKIE), departing from the previous practice of prime ministerial leadership in EU affairs. But Czarnecki commanded limited authority in cabinet, mainly on account of his young age and relative political inexperience (interview June 2002). His standing as Europe minister was further hampered by his open Euro-scepticism, which brought him into frequent conflicts with a more euro-enthusiastic Foreign Affairs Minister (interview June 2002). Within the UKIE, Czarnecki was undermined by a conflict with his deputy (Subotic 1998). After Czarnecki's dismissal in July 1998, leadership in EU affairs remained fragmented. Although the prime minister took over at the helm of the KIE, his position remained weak, while a deadlock within the coalition prevented him from appointing a permanent leader for the European secretariat (Subotic 1999, Wielowieyska 1999).

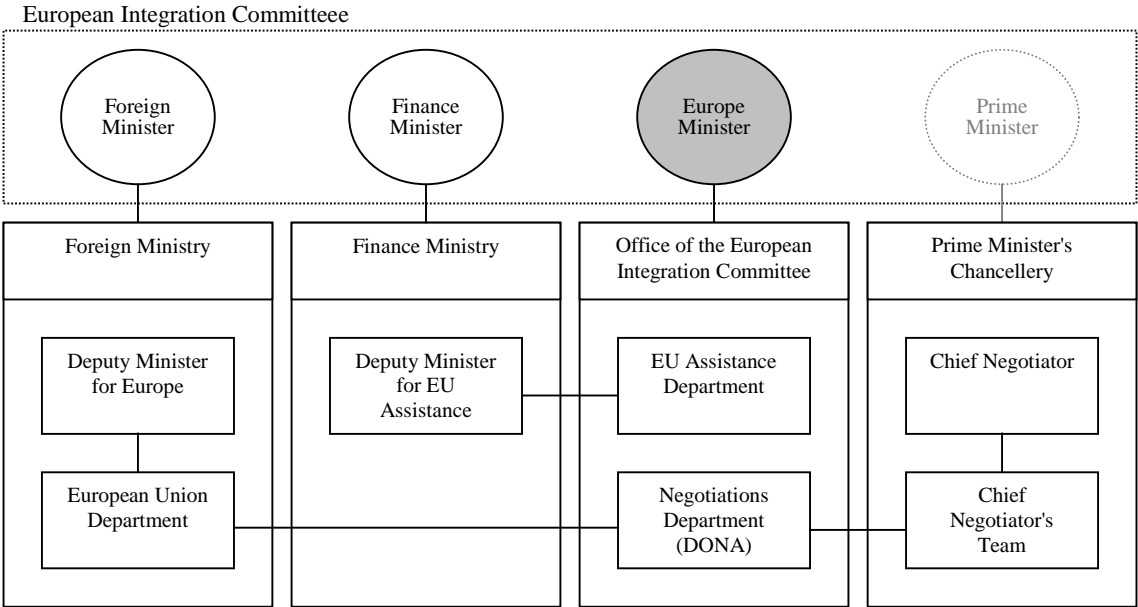
The absence of central leadership affected the planning and monitoring of the transposition process. During the formulation of a global transposition strategy within the framework of the 1998 National Programme for the Adoption of the Acquis (NPAA), the role of the centre was limited to verification of ministerial proposals for their compatibility with the Accession Partnership priorities (interview July 2002). Neither prime minister Buzek nor minister Czarnecki had sufficient determination and authority to engage in strategic planning. In the absence of close central emphasis on task internalization, line ministries paid limited attention to the practical 'who, when and how' of transposition and to the feasibility of transposition

commitments. In effect, the NPAA was a 'compilation of commendable objectives without a sufficient indication of means to achieve them' (interview July 2002). Moreover, a weak political centre did not seek to actively monitor transposition progress and sanction non-compliance. In 1998 neither the cabinet nor the Committee for European Integration systematically monitored the progress made by ministries in meeting their transposition commitments. At administrative level an attempt to develop a close monitoring system was made as late as early 1999 (Internal Memo No 9 1998). But even when non-compliance was detected - as it was in spring 1999 when serious delays in transposition started to threaten Poland's accession - the core still lacked sufficient political resources to discipline ministers. The prime minister's authority continued to be constrained by coalition leaders (Gazeta Wyborcza 1999) while a temporary UKIE leader had too low a rank to compel cabinet ministers to make good on their commitments (interview July 2002).

II.

The centre's ability to coordinate transposition was checked by its high internal fragmentation. In 1996 during a major overhaul of the central government, a decision was made to remove European Integration Department from the Office of the Council of Ministers (URM) and establish an independent European secretariat - the Office of the European Integration Committee (UKIE). Occupying a delicate position inside the triangle delineated by the Foreign Affairs Ministry, Prime Minister's Chancellery and the Finance Ministry, the UKIE evolved into a quasi-ministry, employing almost 200 staff in December 1998. Fragmentation deepened in spring 1998, when as a result of a political compromise between the AWS and the UW, Jan Kulakowski, chief negotiator, was located within the Prime Minister's Chancellery. See Figure 2.

FIGURE 2
Institutional Actors in EU Affairs at the Centre of Government in 1998

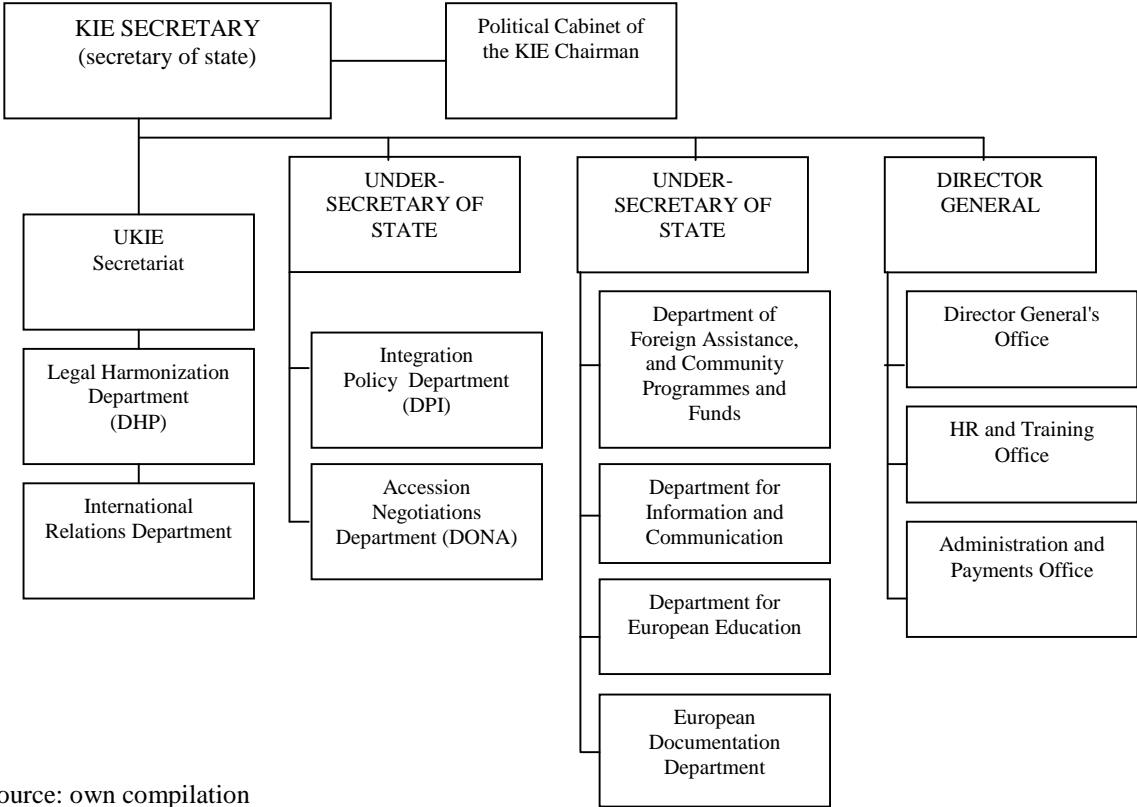


Source: own compilation

Horizontal specialization was marked also within the UKIE. Transposition was monitored in three separate departments: the Department of Integration Policy (DPI), the Law Harmonization Department (DHP) and the Accession Negotiations Department (DONA). The

DPI assessed transposition progress on an annual basis against the NPAA. The DHP was to keep track of legislative changes based on a list derived from the NPAA which, however, had been subject to modification during separate interministerial consultations. Finally, the DONA monitored progress on the basis of legal screening reports and separate timetables submitted by line ministries to the negotiations team. See Figure 3.

FIGURE 3
The Internal Organization of the Office for the European Integration Committee (UKIE) in Autumn 1998



Source: own compilation

Internal coordination within the executive depended predominantly on loose horizontal mechanisms. At the political level, a leading role was assigned in 1996 to a European Integration Committee (KIE), a collective institution composed of eight key ministers and chaired by the prime minister or a cabinet minister. But the KIE was viewed with distrust by line ministers, particularly when it was chaired by one of their cabinet colleagues instead of the prime minister. In effect, it evolved into a monthly debating forum, attended mainly by deputy ministers, civil servants and numerous guests including academics and parliamentarians (interview July 2002). At administrative level, a weekly meeting was held bringing together EU department directors from ministries represented on the KIE. These meetings had a technical character and were used as an informal forum for information exchange. No regular meetings were held at administrative level between the chief negotiator's staff at the PMO and the UKIE, though the DPI's experts were involved in the screening process as note-takers (interview July 2002). The ad hoc meetings between the prime minister, the chief negotiator and the foreign minister served a largely fire-fighting role (interview July 2002).

The internally fragmented core found it difficult to coordinate the transposition process. In 1998-1999 it was not able to ensure that necessary political, financial and time resources should be allocated to the transposition process. The four semi-annual legislative programmes

in 1998-1999 only marginally covered transposition commitments under the NPAA and the accession negotiations (interview April 2002). The state budget made no special provisions for costs related to transposition (Internal Memo no 4 1998, Internal Memo No 7 1999). Organizational boundaries and interdepartmental rivalries hampered coordination between the global transposition strategy and the transposition commitments made during negotiations (Internal Document no 1 1999). The UKIE was often unaware of the exact nature of negotiation positions. In October 1998 its head wrote to the chief negotiator indicating that negotiation documents were not passed over to the UKIE (Internal Memo No 2 1998, Internal Memo no 3 1999). Similarly, accession negotiations became deadlocked as transposition promises were not implemented in line ministries (interview July 2002). Perhaps more importantly, the absence of an authoritative institutional leader impaired the centre's ability to act as broker or hierarchical coordinator during the interministerial consultations of transposing legislation. Neither the UKIE nor the Prime Minister's Chancellery had sufficient authority to settle long-drawn-out conflicts between ministries.

III.

Finally, the core's ability to guide transposition was constrained by limited capacities to undertake regulatory management. This is not to say that central agencies did not engage in analytical and conceptual studies. Indeed, since the early 1990s, extensive research into legal adaptation to the Community legislation was carried out by the working groups of the Legislative Council (an advisory body to the prime minister), the UKIE's Law Harmonization Department (DHP) and a team of legal experts under professor Czechowski (Rada Legislacyjna 1994, UKIE 1997, UKIE 1998). In 1996-1998 two major harmonization programmes were financed under Phare/Sierra and Phare/Fiesta. But such initiatives were hampered by three factors. First, rather than transposition methodology, these studies emphasized modernization of economic legislation through a creative transplant of EU and member states' legal regulations (see for example Rada Legislacyjna 1994). Second and, perhaps more crucially, the two Phare programmes focused on commissioning the writing of implementing legislation with external consultants and, only to a lesser extent, on technical advice to ministries on transposition methodology. In the event, scores of externally produced draft laws met with natural distrust from ministerial bureaucracy (interview July 2002). Finally, the key institutional actor - the Law Harmonization Department (DHP) - acquired technical expertise more in screening for EU compatibility than in active transposition. In any case its largely autocratic attitude towards ministerial legal departments hampered its efforts at regulatory management (interview June 2002).

Limited regulatory guidance from the centre influenced the quality of transposition work. In the absence of a dedicated transposition technique, transposing provisions were added on to non EU-related amendments or were incorporated into fundamental reforms of legal codes. In effect, transposition was frequently blocked for reasons unrelated to EU adaptation. In addition, the centre's passive approach meant that ministerial lawyers had to develop their own methodologies for drafting Community-related provisions. Given that in many areas Community directives provide for policy aims rather than specific means, this frequently stretched technical and organizational resources at the ministerial level. In any case, such resources were limited by a high staff turnover and uncompetitive salaries. For example, ministries such as Environment or Agriculture, with heavy transposition burdens, employed the least number of qualified staff in EU departments. See Figure 4. An internal governmental review concluded in mid 1999 that insufficient personnel resources had been one of the key reasons for delays in meeting transposition commitments (Internal Document No 2 1999). In

effect, ministries either failed to undertake transposition or produced legal drafts of insufficient quality (Łakoma 1999).

FIGURE 4
Staff levels in European Integration Departments in Selected Line Ministries in June 1997

Ministry	Number of staff
Finance	8
Agriculture	4
Labour	15
Transport	5
Environment	2
Economics	38
Foreign Affairs	26
Health	2

Source: derived from (Internal Document no 5, 1997)

The Executive-Parliament Nexus

Until spring 2000 significant institutional and political constraints have prevented the executive from effectively managing the transposition process in parliament. The executive was reigned in most notably by (i) parliament's dominant position in law-making, (ii) limited capacity to prioritize its legislation, and (iii) weak control over supporting parties.

In systemic terms the Polish parliament dominates the executive in law-making (see Rokita 1998, Szeliga 1998). The executive's legislative powers are limited to issuing secondary legislation expressly mandated in statute law. The government has no right to adopt decrees with the force of parliamentary law. Moreover, the executive has few levers for prioritizing its draft legislation after it has reached parliament (Rokita 1998). Although some instruments do exist, most notably the accelerated procedure (*tryb pilny*), deputies or parliamentary committees are free to submit their own bills in areas where a government draft already exists. The executive has little control over parliamentary agenda and time. Government drafts must compete for parliamentary attention with numerous private member bills. Parliament-initiated legislation accounts for around 40 per cent of adopted laws (Szeliga 1998). Parliamentary committees sit only during sessions and face no time constraints on their deliberations (Wielowieyska 2000). Between 1997 and 2000 the executive's position was further hampered by weak control over coalition parties. The extreme internal fragmentation of the Solidarity Electoral Action (AWS), major policy differences with the Freedom Union (UW) and a well-organized parliamentary opposition combined to impair the executive's capacity to ensure smooth passage for its legislation (interview June 2001). This handicap was further reinforced by weakly institutionalized political coordination mechanisms linking party leaders in government with parliamentary caucuses (Zubek 2001).

This configuration of the executive-parliament nexus influenced the extent to which the executive complied with its transposition commitments. In constitutional terms, transposition could only start with parliamentary adoption of numerous framework laws with relevant delegations for incorporation of specific directives. In 2000 the number of such laws stood at around 200 (UKIE 2001). Forced to push numerous transposing laws through parliament the executive was impaired by the inability to impose time constraints on parliamentary procedure. In some cases the parliament took up to two years to process a draft transposing law. For example, a draft sugar market law - scheduled for adoption in 2000 according to the

NPAA - was submitted to parliament in March 1999 but adopted as late as June 2001. Lacking executive privilege such legislation frequently stalled in parliamentary committees. This was particularly marked in agriculture, transport and public finance (Buras and Cichocki 2000b, p. 6). Even after spring 1999, when the government moved to improve the transposition record, it could only appeal to individual deputies and committee chairman to speed up their deliberations. Finally, transposing legislation was often amended by parliament to such an extent that it was rendered incompatible with Community law. Lacking cohesive majority the government lost crucial votes on transposing laws in such areas as state aids, company law, VAT (Buras and Cichocki 2000a, pp. 8-9). In some cases parliament itself initiated transposing legislation. 68 such laws were adopted in 1998-1999 (UKIE 2001).

(ii) The Core Rebounds

Internal Executive Configurations

Between January and June 2000 the core executive acquired new political and organizational resources which allowed it to more effectively direct, coordinate and advise line ministries in the transposition process. This ascendancy was made possible chiefly through (i) strong leadership from the prime minister and the minister for European affairs, (ii) reinforced horizontal and hierarchical coordination mechanisms, and (iii) the development of new capacities to undertake regulatory management.

I.

In early 2000 prime minister Buzek emerged as a strong champion for EU accession. His personal stance on EU affairs evolved from relative scepticism in 1997-1998 to staunch support in 1999-2000 (interview July 2002). Perhaps more importantly, in late 1999 and early 2000, when his cabinet began to slip into a mid-term crisis, Buzek saw the opportunity of using EU integration to inject fresh impetus into the AWS-UW government (interview July 2002). Substantially reinforced by the general awareness of transposition delays, particularly after the 1999 Commission Report and the February 2000 debate in Parliament, the prime minister was capable of asserting his leadership in European affairs. Buzek was also helped by his growing political status. Besides a higher profile within the AWS, Buzek's position in cabinet increased substantially after the UW withdrew from the coalition in the summer 2000 and the AWS leader, Marian Krzaklewski, lost his presidential bid in the autumn that year (Subotic 2000a, Wronski 2000). The centre's leadership was further reinforced after a permanent appointment was finally made to the head of the European secretariat (UKIE). The position went to the prime minister's chief advisor, Jacek Saryusz-Wolski, former head of the URM's European Integration Department, who commanded great personal authority and was well-known for his assertive management style (interview July 2002).

The ascendancy of the core executive had a considerable impact on the planning and monitoring of the transposition process. Between November 1999 and February 2000 the centre assumed a strategic role in formulating a new global transposition strategy (interview July 2002). Close cooperation between the UKIE and Wojciech Arkuszewski, parliamentary secretary in the Prime Minister's Chancellery made it possible to produce an inventory of outstanding transposing legislation integrating both the NPAA priorities and negotiations commitments. Thanks to Arkuszewski's involvement, the programme could be highly operationalized by laying down precise deadlines and names of individuals responsible for

particular pieces of transposing legislation (interview July 2002). The new programme was formally adopted by the full cabinet in April 2000 and its implementation was subject to close monitoring. Asserting his right to control the cabinet agenda, prime minister Buzek began all cabinet sessions by first reviewing transposition progress (interview July 2002). His close involvement compelled the Cabinet Agenda Department within the Chancellery to start monitoring transposing legislation as a matter of course (interview April 2002). Transposition record also became a key element in the prime minister's assessment of ministerial performance (interview July 2002). Finally, Jacek Saryusz-Wolski, the first permanent head of the UKIE for almost two years, enjoyed sufficient support from the prime minister as well as personal authority to request explanation from ministers on any delays in transposition (interview July 2002).

II.

In mid 2000 the centre upgraded its coordination capacity through the reinforcement of existing horizontal mechanisms and development of instruments for hierarchical coordination. For one thing, the European Integration Committee (KIE) started to meet once a week. More crucially, the higher frequency was accompanied by a substantial change in the committee's agenda. The new KIE secretary transformed it from a debating forum into a dedicated cabinet committee working on transposing legislation (interview July 2002). In its decision-making role the KIE was assisted by ad hoc task forces at director level. Replacing the weekly regular meeting of EU department directors, these new fora provided a more focused environment responding to clear and time-constrained mandates from the KIE (interview July 2002). Horizontal instruments were supplemented by more hierarchical forms of coordination. A deputy minister for EU transposition, Cezary Banasinski, was appointed within the UKIE, the first such appointment at political level within the central administration. A lawyer by training, he liaised with line deputy ministers responsible for legal harmonization and chaired interministerial consultation conferences devoted to transposition. Enjoying strong political backing from the prime minister and minister for European affairs as well as benefiting from his professional expertise, Banasinski was in a good position to act a broker or hierarchical coordinator vis-à-vis his ministerial interlocutors (interview July 2002).

This institutional upgrading of the coordination capacity influenced the pace of transposition. Reinforced horizontal instruments led to a better integration of transposition priorities into parallel governmental processes. Most crucially, the centre ensured that financial resources were made available to departments responsible for legislation. Between June and October 2000 extra financing was made available for new personnel and external consultants (interview July 2002). The KIE's higher profile also ensured a better linkage with negotiations, though some communication problems persisted (interview July 2002). Such closer correlation between legal adaptation and negotiation commitments enabled the government to unblock talks in many areas (interview July 2002). The reinforced coordination mechanisms accelerated the legislative process. Banasinski had sufficient authority to cut through drawn-out conflicts that in many instances blocked interministerial consultations. In addition, the KIE's more active role the legislative process allowed the bulk of transposing legislation to bypass regular cabinet committees and move straight to full cabinet.

III.

Starting from mid 2000 the core provided active guidance to ministries in the transposition process. This was achieved primarily through the development of new administrative

capacities and the adoption of a more cooperative style. First and foremost, the new deputy minister for transposition joined forces with the Legislative Council to develop a set of original legislative tools for transposition of Community rules into the Polish legal order (interview July 2002). Departing from a modernization or 'creative transplant' approach, the government developed a new model of a 'European' parliamentary law and the KIE's internal bylaws were amended to specify such new formal requirements (KIE 2000). The centre's regulatory capacities were further reinforced through the creation of a new legal department within the UKIE. The Department for European Legislation (DLE), directly answerable to the deputy minister for transposition, took over from the DHP as a leading department in legal adaptation. Highly competitive salaries made it possible for the DLE to recruit a group of high-calibre lawyers with expertise in Community law (interview July 2002). Unlike the DHP, the DLE focused almost exclusively on providing day-to-day guidance to line ministries in the preparation of transposing legislation.

Such active regulatory management contributed to streamlining the intra-executive legislative process. The special 'European' laws allowed the government to technically separate transposition-related amendments from other non-EU-related provisions. In effect, the potential for conflict was substantially reduced. The Legislative Council and the DLE's close involvement from early stages of legal drafting allowed to reinforce technical and personnel capacities at ministerial level. Adopting a more cooperative style, the DLE's staff were often seconded to ministries and became involved at all stages of the legislative process. In this, it was assisted by a Government Legislative Centre, a new institution established in early 2000. Where limited ministerial staff precluded timely production of a legal text, the DLE took over the drafting process (interview July 2002). The centre's active regulatory assistance helped produce significant breakthroughs in many areas. For example, progress on the law on regulated professions, which introduced many elements into the Polish legal order, was made possible chiefly through the close cooperation between the Legislative Council, the DLE and ministerial staff (interview June 2001).

The Executive-Parliament Nexus

In mid 2000 the executive acquired extensive control over the transposition process in parliament. This was achieved in particular through (i) cohesive support from major political parties, (ii) new 'bundling' technique, (iii) monopoly of legislative initiative, and (iv) restricting of parliamentary amending powers.

In spring 2000 the prime minister and the new minister for European affairs exploited an emerging consensus in EU affairs among the major political parties to push for more executive control over transposition process in parliament (interview July 2002). But it was only after the AWS-UW coalition collapsed in June and the AWS formed a minority government that a need for institutional arrangement became acutely apparent to all actors involved. In the event, a trilateral agreement was concluded in July 2000 between the executive and the Sejm (lower house) and the Senate (upper house), which granted the executive new levers for management of transposing legislation in parliament. The executive won the right to 'bundle' together all transposition-related provisions within the framework of 'European' laws (Subotic 2000). A special European Law Committee was established in the Sejm exclusively to deal with transposing legislation and the executive was granted a monopoly of legislative initiative in this committee. Moreover, the deputies' right to submit amendments was heavily constrained. Unlike in regular Sejm committees, it took as many as

three deputies to propose an amendment, while in plenaries this number was increased to five. The presence of the UKIE deputy minister for transposition, Cezary Banasinski, at all committee sessions served as an additional constraint. Banasinski had the right to intervene whenever he thought that the committee ran the risk of adopting provisions incompatible with EU law (interview July 2002). Finally, the new committee's bylaws provided for a shortening of most procedural time-limits. For example, a second reading in a plenary had to be held immediately at the next Sejm session after the committee submitted its report.

More extensive control over parliament in the transposition process influenced the extent to which transposition commitments were complied with. The 'bundling' technique allowed the government to reduce the number of transposing legislation to be submitted to the parliament by almost one fourth. Time constraints helped shorten the average time needed for the adoption of a transposing instrument from several to two months (Buras and Cichocki 2000b, p. 8). The close involvement of such executive actors as Banasinski in the plenary sessions and the European Integration Committee contributed to the development of a general parliamentary awareness that in most cases Community legislation was transposed on a take-it-or-leave basis (interview July 2002). While some factions within the AWS continued to oppose specific adaptational instruments, support from the opposition made it possible for the minority government to win most votes on transposing legislation. In effect, the pick-up in the nominal rate of transposition was substantial. While in May-June 2000 the parliament adopted seven transposing laws, in September-October this number increased to thirty four (Buras and Cichocki 2000b, p. 7).

Conclusion

The evidence from changes in the executive configurations in 1997-2001 supports the paper's hypothesis that a major upward shift in the pattern of transposition was correlated with a far-reaching centralization of authority in the executive. In 2000 the Polish executive acquired more control over transposing legislation in parliament, while internally the core was able to more closely guide the line ministries.

Two caveats are due in the conclusion. First, the focus on timeliness as proxy for successful transposition does not control for variation in the degree of substantive adaptation. To transpose on time does not always mean to transpose well. In this context, it is interesting to note that, if one is to believe the data contained in the European Commission's Progress Database, the number of EU laws for which Polish national measures are fully compatible hovered around a mere 20 per cent in February 2002. Second, and more generally, timely transposition is by no means tantamount to successful implementation of the Community legislation. A perfectly drafted law may well remain a dead letter. Interestingly, one of the key lessons from policy research is that the likelihood of implementation failure increases when radical policy reforms are pushed through by strong centralized executive teams (see for example Evans, et al. 1985). In this sense, the findings presented in this paper offer only a first glimpse of EU implementation in Poland and as such invite further research.

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