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Stefanie Tragl

The Development of Polish Telecommunications Administration (1989-2003)

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Introduction

The development of the Polish telecommunications administration in the years 1989/90 to 2003 is marked by the processes of liberalisation and privatisation the telecommunications sector underwent during that period. The gradual liberalisation of the Polish telecommunications sector started as early as 1992. In the beginning, national strategies were pursued. The most important of these was the creation of a bipolar market structure in the local area networks. In the second half of the 1990ies the approaching EU membership accelerated the process of liberalisation and consequently the development of a framework of regulations. EU standards are more directed towards setting out a legal framework for regulation than prescribing concrete details of administrative organisation. Nevertheless, the independent regulatory agencies typical for Western Europe served as a model for the introduction of a new regulatory body responsible for the telecommunications sector in Poland. The growing influence of EU legislation changed telecommunications policy as well as administrative practices. There has been a shift of responsibilities from the ministry to the regulatory agency, but the question remains, if the agency gained enough power to fulfil its regulatory function.

In the following the legislative framework created by the EU in telecommunications policy will be described and the model of independent regulatory agencies, as it is typical for most EU countries, will be introduced. Some categories for the analysis of the Polish regulatory system will be deduced from the discussion on the regulations of telecommunication in the established EU-Nations (see Böllhoff 2002 and 2003, Thatcher 2002a and 2002b, Thatcher/Stone Sweet 2002). Subsequently the basic features of Polish telecommunication policies in the 1990ies and its effects on the telecommunications sector will be outlined. In the third chapter the development of organisational structures on the ministerial level and within the regulatory agency will be examined. In the forth chapter I will look at the distribution of power and the coordination of the various authorities responsible for telecommunication regulations. The focus of this chapter is on the Polish regulatory agency and its relationships with the ministry, with the anti-monopoly office and with the Broadcasting and Television Council. In a conclusion, the main findings will be summed up.

1 The EU Regulatory Framework: Prescriptions and Leeways

1.1 The General Legal Framework

The EU legislation on telecommunications is part of the *acquis communautaire* that candidates have to adopt before joining the Union. Essential components are directives on the establishment of EU competition law in the telecommunications sector and directives on the harmonisation with the Single Market. However, the implementation of EU regulations depends on national institutions, leaving freedom for interpretation, variation and delays (Thatcher 2002a). *Inter alia*, the EU gives no detailed instructions on the internal organisation of the administrative bodies necessary for the establishment of the regulatory framework, but leaves such decisions to the national governments.

The liberalisation of the telecommunication markets in the EU started in the 1990ies. Until then, state-owned companies held a monopoly on the telecommunication markets and telecommunication policy was a national matter. The EU Commission did not play a part in telecommunications regulation. This situation changed with the Green Paper the Commission issued in 1987. The EU Commission, supported by the ECJ, began to play a proactive part enforcing the implementation of EU competition law also in the telecommunications sector. First, the markets for terminal equipment were liberalized. The gradual liberalisation of telecommunications networks and services started with the 1990 directive on telecommunication services. In the area of network infrastructures, the state monopoly remained.

On the first of January 1998, the full liberalisation of the telecommunication markets was introduced. Especially in the beginning, this process was accompanied by numerous exceptions and delays. Although the EU adopted a very liberal regulatory framework on telecommunications, national markets were and still are dominated by the former state-owned telecommunications operators.

The directives the EU Commission issued in the 1990ie can be divided into two categories: directives on competition and directives on harmonisation. The directives on terminal equipment, on service provision, satellites, cable-TV, mobile phones and the amending directive are directives on competition. The directives on harmonisation include above all directives on *Open Network Provision* (ONP) and data protection. These regulations, also labelled as the 1998 Regulatory Package (see bibliography), represent the legislative framework the countries applying for EU membership had to take over in the process of joining the EU.

Central issues of the Regulatory Package were the ONP regulations and the definition of an operator with significant market powers (SMP), who could then be subject to specific regulatory rules. The national regulatory agencies were supposed to play a central part in establishing the regulatory framework.

In 2002 the regulatory framework was fundamentally reformed, in order to make it more uniform and at the same time flexible. The directives were supposed to consist of prescriptions technologically neutral and limited to the regulatory minimum. The new regulatory framework of the EU consists of five directives and one regulation (see box).

Box 1: The 2002 Telecommunication Package

Framework Directive: Directive (2002/21/EC) of the European Parliament and of the Council on a common regulatory framework for electronic communications networks and services

Access Directive: Directive (2002/19/EC) of the European Parliament and of the Council on access to, and interconnection of, electronic communications networks and associated facilities

Authorisation Directive: Directive (2002/20/EC) of the European Parliament and of the Council on the authorisation of electronic communications networks and services

Universal Service Directive: Directive (2002/22/EC) of the European Parliament and of the Council on universal service and users' rights relating to electronic communications networks and services

Directive on privacy and electronic communications: Directive (2002/58/EC) of the European Parliament and of the Council of concerning the processing of personal data and the protection of privacy in the electronic communications sector

Regulation (2887/2000/EC) of the European Parliament and the Council on unbundled access to the local loop

Source: Wissmann 2003:33

Enforcement of the EU rules is more and more exerted through "soft policy instruments" (Michalis 2003:25), such as recommendations and European benchmarking. Thus, the national regulatory agencies have a greater leeway in the implementation of the regulatory policies. The greater flexibility of the regulatory framework has to been seen against the background of an already extensive market liberalisation in the established EU member states and the efforts for less rigid regulatory policies. Also EU enlargement provides arguments for greater flexibility, as it has increased divergence within the EU. It will now be more difficult to achieve harmonisation through strict prescriptions of hard Community law (see Michalis 2003: 25ff.)

1.2 The Model of an Independent Regulatory Agency

With the liberalisation of the telecommunication markets, a functional separation of the regulatory tasks from the mainly state-owned operators was necessary. The regulatory tasks thus should be allocated with national regulatory authorities.

The legal definition of these authorities was made step by step. The directive 90/387/EEC mentions the regulatory agencies for the fist time. In the Directive on Voice Telephony of 1995[1] a regulatory agency is referred to as:

> "the body or bodies in each Member State, legally distinct and functionally independent of the telecommunications organizations, entrusted by that Member State, inter alia, with the regulatory functions addressed in this Directive" (Directive 95/62/EC).

In the Competition Directive of 1997 the demands on the national regulatory agencies are specified in more detail (see box).

Box 2: Directive 97/51/EC of the European Parliament and the Council

Article 5a

1. Where the tasks assigned to the national regulatory authority in Community legislation are undertaken by more than one body, Member States shall ensure that the tasks to be undertaken by each body are made public.

2. In order to guarantee the independence of national regulatory authorities:
   a. national regulatory authorities shall be legally distinct from and functionally independent of all organizations providing telecommunications networks, equipment or services,
   b. Member States that retain ownership or a significant degree of control of organizations providing telecommunications networks and/or services shall ensure effective structural separation of the regulatory function from activities associated with ownership or control.

3. Member States shall ensure that suitable mechanisms exist at national level under which a party affected by a decision of the national regulatory authority has a right of appeal to a body independent of the parties involved.

4. Member States may take steps to ensure that national regulatory authorities are able to obtain from organizations providing telecommunications networks and/or services all the information necessary for them to apply Community legislation.

Source: OJ L 295, 29/10/97

Elsewhere, the EU recommends that the regulatory powers should be allocated to a separate authority, if significant shares of the incumbent operator remain in the hands of the state. If the incumbent operator is private however, the regulatory power may stay with the respective ministry. "The way in which NRAs are organised and exercise their

[1] Directive 95/62/EC of the European Parliament and of the Council of 13 December 1995 on the application of open network provision (ONP) to voice telephony

powers is clearly a matter for the national legal and administrative systems, provided the basic requirements of the EU framework are complied with" (EU-Commission 2002b).

In the meantime all member countries have implemented national regulatory agencies, working independently of the ministries. However, the respective powers of regulatory agency and ministry are distributed differently in the individual countries:

„Two models for the *assignment of regulatory powers* have evolved. In some Member States an independent and autonomous body or agency exercises the full range of powers including those relating to licensing, interconnection, access, price controls, frequency assignment and numbering (Germany, Greece, Ireland, Austria, the Netherlands except for frequencies, Portugal), while in the others the regulatory body exercises regulatory powers to a greater or lesser extent with the relevant ministry. **The dispersal of powers inevitably leads to a reduction of the regulatory certainty required by the market, in particular in cases where decisions by ministries relating to licensing or price controls may be seen by the market as being influenced by political considerations**" (European Commission 2002b: 19, accentuation by the author).

The call for independence of the regulatory agency from the ministry responsible for telecommunications has become more pronounced. It seems to be the Commission's opinion that in order to achieve political independence of regulatory decisions, it is not enough to simply transfer the states' shares in the dominant telecommunications operator to another ministry not responsible for telecommunications.

This demand is in line with the political and academic discussion about independent regulatory agencies (see OECD 1999, Thatcher 2002a and 2002b) as *non-majoritarian institutions* (Thatcher/Stone Sweet 2002) and their functions within the *regulatory state* (Majone 1997). It is seen as an advantage of independent regulatory agencies (IRA)[2], that due to their independence from elected politicians they are able to make more credible promises, pursue specific regulatory targets without being bound to corporatist commitments and achieve procedural legitimacy through transparent decision-making. Corresponding to these arguments, Thatcher (2002a: 959 ff.) developed the following indicators to evaluate the political independence of regulatory agencies:

- The degree of party political influence on the nomination of the agency director,
- dismissals and resignations before the term of office has ended,
- duration of the term of office,
- the agency's financial and personnel resources,
- opportunities for politicians to cancel decisions made by the regulatory agency.

Indications of entanglement vs. distance of regulatory agencies from operators are:

[2] The scientific debate speaks alternately of IRA – independent regulatory agencies – and NRA – national regulatory agencies, whereas most EU documents use the term NRA.

- The existence of a "revolving door", i.e. the managerial personnel going back and forth between regulatory agency and operator;
- the number of mergers having been blocked, serving as an indicator for the power the IRA has with regard to large enterprises;
- appeals from decisions indicate conflicts instead of agreements between regulatory agency and company.

Indicators for the transparency of decision-making processes are:

- diversity of consultants,
- accessibility of information,
- public interest, measured by the frequency of access to the website of the regulatory agency.

Thatcher/ Stone Sweet (2002) view the dissemination of independent regulatory agencies as processes of isomorphic adaptation. The effects of normative isomorphism can be suspected here, as the discourse about IRA is spread by international elites sharing the same type of knowledge. The increase of IRA is frequently described as an institutional fashion (it is "trendy" as in Böllhoff 2002). Coercive mechanisms are at work as well, since the regulations issued by the European Commission are rather binding. The academic discussion, however, leaves the question unanswered, which degree of institutional conformity has to be achieved before one may speak of institutional isomorphism. Is it sufficient if the organisations are identically labelled, or is it necessary to look for a more extensive correspondence of legal status, powers and organisational structure?

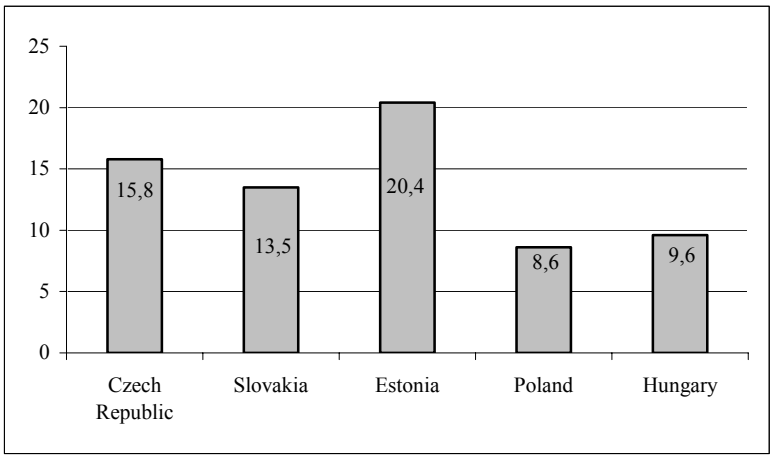
Another interesting approach to this question is provided by the concept of regulatory regimes in the sector of telecommunication (Böllhoff 2002). This concept focuses on the relationships between ministries, anti-monopoly authorities and regulatory bodies specific for the sector. The ideal-type role of a ministry is policy formulation and strategy development, as well as control of the regulatory agency "at an arm's length" (Böllhoff 2002: 8). The anti-monopoly authority is responsible for safeguarding competition. Its task is to prevent behaviour unfavourable to competition, and to control mergers. The responsibilities of the anti-monopoly authority often overlap with those of the sector-specific regulatory body. Another question relevant as well for the Polish case is, whether the regulatory agency will really play the part of the "core decision-maker" in the respective regulatory regime (Böllhoff 2002: 9).

2 Polish Telecommunication Policy in the 1990ies

2.1 The Development of the Telecommunication Sector in Poland

In the days of state socialism the development of telecommunications infrastructure, especially of the conventional telephone network, was neglected by all Central and Eastern European countries. In the beginning of the 1990ies, Poland's starting position was particularly bad in comparison with other countries in the region, with only 8.64 telephones per 100 residents.

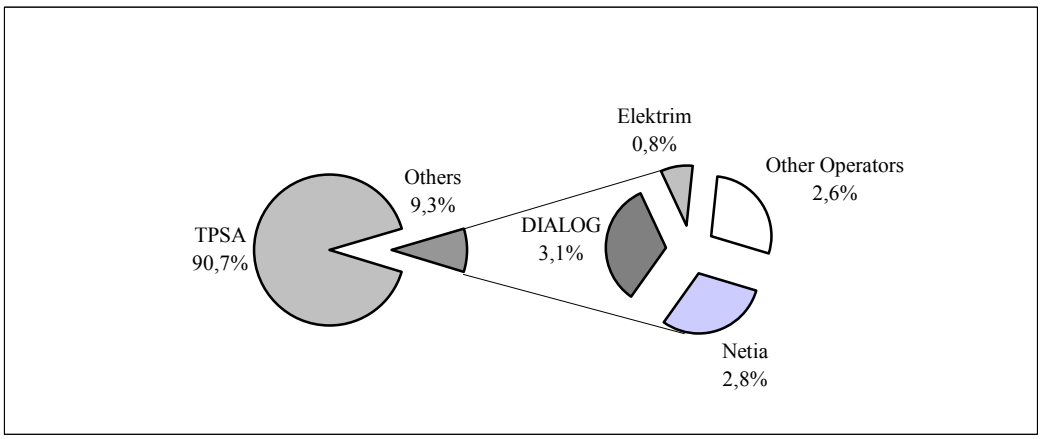
Illustration 1: Fixed telephone lines per 100 residents in the beginning of the 1990ies



Source: http://unstats.un.org/unsd/cdb/cdb_help/cdb_quick_start.asp (5.11.2003)

The previously state-owned TPSA is still in the position of the unchallenged market leader. Its share in the local area markets, which were already liberalised in 1992, is still 90%. With regard to long-distance calls competitors succeeded within a year to take over 5% of the market, measured by flow of calls.

Illustration 2: Local lines in 2002



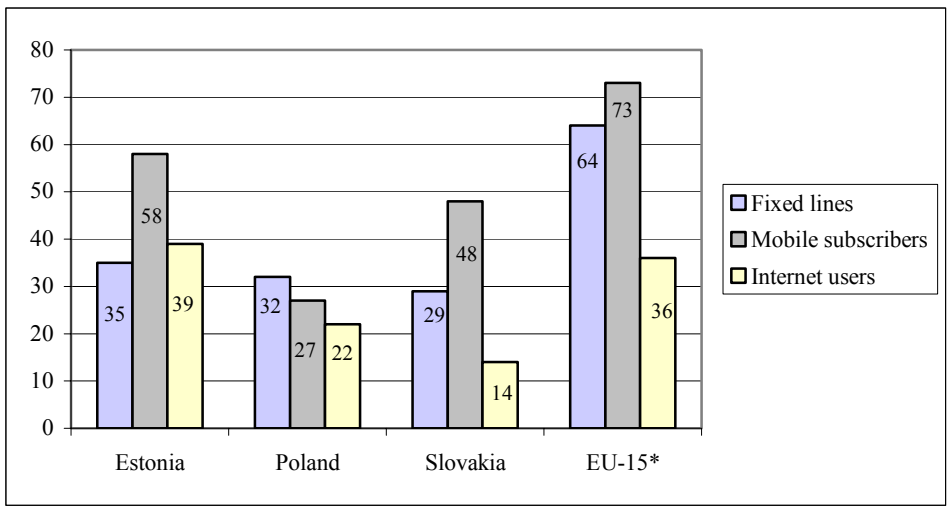
Source: illustration based on www.mininf.gov.pl/moduly/dokumenty/analizy.php (27.10.2003)

The monopoly position of the TSPA causes, that call charges in Poland are very high. If only charges for local or far-distance calls are compared, there is no extreme difference to other Central European countries (IBM 2002). The OECD compares telephone costs via "consumer baskets", taking into account fixed costs (fees for connection and rental) as well as the user-related costs. National prices are weighted according to purchasing power parities (PPP). A comparison of the baskets shows that Poland's private customers (users of the residential basket) pay the highest telephone fees of the OECD (OECD 2002, see Stankiewicz 2002).

Since the mid-nineties, the Polish telephone market has grown by 15% per annum. In 2000, the entire telecommunications market represented 4.4% of the Polish GDP. But despite of that, Poland's position in relation to other CEEC had not improved (Dornisch 2001: 384, see ill. 2). In 2001 there were 32 telephone lines per 100 residents, equivalent to 62 lines per 100 households. 22% of the Polish population uses the internet, a rate corresponding with the average of other Central Eastern European countries.

Since 2000 the increase of new telephone connections has slowed down in Poland as well as in other CEEC (Stankiewicz 2002: 99). The number of connections in Poland is still below the average of the neighbouring countries, and there are still waiting-lists to be worked off. Although the TPSA's profits are growing, their investment quota remained stable, quite unlike other CEEC where the incumbent operators have had phases of intense investments (see OECD 2002: 40). Furthermore, competitors of TPSA could not proceed as planned with the expansion of the fixed line network. Financial problems of the companies were the main reason for this.

Illustration 3: Telephone lines per 100 residents in Poland in comparison



Source: IBM 2002, European Commission 2001

In the CEEC, the growth rate of mobile phone networks is twice as high as in Western Europe, mobiles being used as a substitute for the lack of conventional telephone connections. The Polish mobile phone market noted very high growth rates. In 2001 27% of the population owned mobile phones. This rate, however, is still below that of other Central Eastern European countries. The mobile phone market is not as monopolised as the fixed line markets. The suppliers PTK Centertel, PTC and Polkomtel have almost equal market shares with regard to subscribers as well as to pre-paid users.

The development of the telecommunication market clearly shows that privatisation without a preceding introduction of competition leads to even greater difficulties in controlling a then private monopolist (OECD 2002:13). Without an effective regulatory framework protecting fair competition and contracts of interconnections based on costs, newcomers to the market do not stand a chance against the incumbents (OECD 2002:12).

2.2 Steps towards Privatisation and Market Liberalisation

The liberalisation of the Polish telecommunications market went on stepwise, here three phases can be distinguished. Each step was marked by numerous conflicts between the market entrants and the TPSA. They were settled either in court or by the anti-monopoly authority (UOKiK, Urząd Ochrony Konkurencji i Konsumentów). The ministry responsible for telecommunications remained passive during these conflicts, at least until the late 1990ies. This makes Dornisch raise the question, to what extent the governmental policy supported the telecommunication market or how far the „development has occurred in the sector *in spite of* what has typically been inconsistent and opaque governmental policy“ (Dornisch 2001: 385).

The **first phase** of market liberalisation (1990-1994) started when a new communications law was passed in 1990 and the telecommunication operator was separated from the post operator. The communications law of 23.11.1990 included numerous modified regulations of the old communications law of 1984 as well as various new regulations. Its main purpose was to put an end to the state monopoly in the telecommunications sector.

The state-owned operator Polish Post, Telegraph and Telephone(PPTT) was transformed into the TPSA and the Polish Post Office (Poczta Polska). The TPSA continued to hold the monopoly in the field of telecommunication services. In 1992 the

monopoly for local calls was loosened and two further operators were admitted to each local market. This started in small towns and later was extended to bigger cities. The liberalisation of local markets preceding that of long-distance and international calls contrasts sharply with the strategies of other OECD-countries (OECD 2002:8).

The objective was to form bipolar market structures. In 1999 this structure was loosened in the Warsaw area and three rival operators of TPSA were admitted (El-Net, Netia, Telefonia Lokalna). In the beginning of market liberalisation, considerable difficulties were caused by issuing of a multitude of licences with only a fraction of the operators really taking up the business. This had two reasons: the conditions for issuing a licence had not been clearly defined by the law, and the companies' financial resources for building up new networks were limited. At the same time, TPSA obstructed to sign contracts on line leasing.

The first Polish communications law is assessed differently. A point in its favour is that Poland was the first country in Central Eastern Europe to pass a law on privatisation and liberalisation of the telecommunications sector (Stankiewicz 2002). Formally an extensive de-monopolisation was achieved, while in fact the successor organisation of the PPTT, the TPSA, remained the monopolist in the market. Critics find parts of the law to be defective, incomplete and phrased too vaguely. In some fields the telecommunication law did not consider the state of development of telecommunication, e.g. concerning mobile phones (Gospodarek 1997: 287f.). EU legislation was hardly taken into account, and the law consequently conflicted with EU jurisdiction on many issues. However, concerning liberalisation of local networks it clearly went far beyond the minimum demands the EU had introduced at that time.

The **second phase** (1995-2000) sets in with the amendment of the communications law in 1995, connected with the Europe Agreement being in force since 1994. The main purpose of the amendment was the adaptation to European law. The regulatory regime, working with concessions (for telecommunication service provision) and licences (for the implementation and operation of telecommunication networks), was rephrased in precise terms, public tendering for concessions became compulsory. Nevertheless, many contradictions remained. Therefore in the Accession Partnership of 1999, the EU Commission called for a new telecommunications law in Poland and the creation of an independent regulatory agency until June 2000. In the course of the accession negotiations, Poland declared its willingness to completely take on the *acquis* before membership. In 1998 the privatisation of the TPSA began (see below for more details).

One package of the TPSA shares was sold on the stock market, another package went to the company's employees. In 2000 – 2001 a third package was sold to the strategic investor France Telecom.

The liberalisation of the long-distance market started not until the TPSA had been privatised. The invitation for tenders began in October 1999 and was soon followed by issuing licences for long-distance-calls in May 2000. Three companies, NOM, Netia1 and Energis, had obtained concessions and were to start operating already in June 2000. Due to conflicts with the TPSA about the content of the interconnection contracts, they started only in the course of 2001. In March 2002 further licences were issued.

The **third phase** of market liberalisation started in 2001 when the new telecommunications law, adopted in 2000, entered into force. Long discussions and numerous delays had preceded its adoption. The telecommunications law should be the legal and institutional basis for a complete liberalisation of the fixed line market, and ensure the adaptation to the legal framework of the EU (at the time, the 1998 regulatory package was binding, see appendix.). However, EU integration was not the only factor driving towards the introduction of a new telecommunications law. Due to the country's membership in the WTO, Poland had to adapt to liberalisation of the worldwide telecommunication markets since the mid-1990ies.

Instead of the system of concessions and licences, the new law provides for standardised authorisations for telecommunication service providers, which can be bought much easier and at considerably lower costs than the old concessions. Authorisation is not compulsory for networks limited to a local area (municipality). This revision simplified procedures and abolished charges for concessions (now, only a fee of 2.500 € for administration expenditures has to be paid). In addition, the new law for the first time contains regulations on the application of special standards concerning operators with significant market powers, on the interconnection of networks, equal access to services and on consumer protection. Another important step in Polish telecommunication policy was the liberalisation of the market for international calls since the beginning of 2003. Restrictions to foreign companies trying to purchase shares of Polish telecommunication companies contained in the old law have been abolished, with the exception of the realm of international calls. The new telecommunication law has transferred the responsibility for market regulation to the newly established independent regulatory agency, the Office for Telecommunications and Post Regulation (Urząd Regulacji Telekomunikacji i Poczty, URTiP).

The telecommunication law was passed without the necessary secondary legislation. This has caused serious implementation problems, as decrees to the law were issued only subsequently and have remained incomplete for a long time (see IBnGR 2003).

The liberalisation of the market for long distance calls, which was conducted just in the transitional period between the old and the new telecommunications law, elucidates some problems of the application of the regulatory framework. Until the new telecommunications law came into effect, a distinction was made between licenses for construction and use of devices or telecommunication networks, and licenses for telecommunication service provision, which might include the use of rented networks. The TPSA was exempted from the obligation to obtain a licence, it worked on the basis of contracts with the ministry. The award of licences was bound to tenders. Until 2001, tenders could only be carried out by the respective ministry.[3] The fees for licences were very high: during the liberalisation of the long-distance network between 23 and 28 million € of fees were paid. In spite of the high fees the operators had paid for concessions, they could only start working after long delays (Stankiewicz 2002:185).[4] Licences were sold before the new licensing system came into effect, so that the legitimacy of the high fees was questionable. The legal amendment of 2000 brought about new principles for issuing concessions by the URTiP, the above described system of authorisation and registration for telecommunications service providers was introduced.

Interconnection contracts between TPSA and its competitors were and still are a further problematic issue. Because of its powerful position on the market, the TPSA can charge high fees on other operators. The telecommunication administration was frequently accused of behaving passively and even causing delays in solving this problem. Local operators frequently had to sort out their conflicts with the TPSA via the UOKiK. When the market for long-distance calls was liberalised, the negotiations with the TPSA about interconnection played a decisive part in delaying liberalisation. The Ministry of Communication had not prepared guidelines for the interconnection contracts, this was done only after a long dispute between Netia and TPSA.

A further difficulty the competing operators had to fight was the introduction of carrier pre-selection and call-by-call for the use of their service. The TPSA stated that

[3] The KRRiT was responsible for issuing concessions concerning the emission of radio- and television programmes.

[4] For this reason, operators sued for the refund of the licence fees.

pre-selection could only be used by the public after all centrals were digitalised and the respective software installed, and it offered pre-selection only for their own services.[5]

Customers who wanted to use other operators first had to sign a contract with them. After that they could use the service via call-by-call. Netia1 and Energis chose this way, whereas NOM offered call-by-call without a contract. Later, NOM found himself in a severe conflict with the TPSA, because the latter refused to put the charges for the use of NOM on their bills and to collect them.

The liberalisation of the Polish long distance network is exemplary for the unprofessional and overhasty actions of the telecommunication administration. Liberalisation measures were introduced before the legal and institutional regulatory framework was fully prepared (see Stankiewicz 2002: 186). The telecommunications law of 2000 nevertheless represented an important step towards the adaptation to the legal framework of the EU (see chart 3, appendix). But yet again, the telecommunications operators, and in April 2001 also the EU-Commission queried numerous shortcomings in the legal framework. The Commission criticised above all the definition and the preconditions for the Universal Service Provision[6], as well as the lack of regulations for carrier-selection and for the number portability. It demanded the implementation of a regulation on local loop unbundling, a correction of the regulations on universal service and more consistency in the application of asymmetric regulation to operators with significant market powers.

In May 2003 the telecommunication law was revised in order to meet the demands of the EU-Commission. The most important points of the amendment concerned the new regulations on number portability and the limitation of the USP obligation to the dominant operators in the respective voivodship.

The Privatisation of the TPSA

The TPSA was founded in December 1991 as a joint-stock company, when the state-run enterprise Polish Post Office, Telegraph and Telephone (PPTT) was divided into

[5] In the information message, they only mentioned their own prefix. Furthermore, their promotion gave the impression that long distance calls can only be made via this number. These are further examples of anti-competitive behaviour.

[6] It is problematic that the Polish definition of universal services assumes that the infrastructural preconditions for their provision have already been implemented. The telecommunications act of 2000 obliges all operators to offer universal services. This provision made the access to the market difficult for new entrants, because it requires high investments especially in rural areas. Another problem is that the mere commitment to USP without any threat of sanctions offers no sufficient incentive to invest in the telecommunications infrastructure.

telecommunications and post operator. The employment contracts of the former PPTT-employees were maintained and passed to the TPSA. Thus, thousands of employees in the joint-stock company worked under the conditions of the law on state employees instead of having contracts according to private labour law. Since 1992, the company is authorized to offer telecommunication services without having to pay concessions fees or facing any restrictions. This agreement was renewed in 1997 via a contract between TPSA and the Ministry of Communication.

The Minister of Communication represented the state as the owner on the board of the company. This solution met criticism, because it led to conflicts of interests, as the Minister of Communication now supervised both the regulation of the market and the dominant company itself. Before the privatisation started in 1997, the control of the TPSA shares passed from the Minister of Communication to the Minister of State Treasury.

The privatisation of the TPSA was carried out in three steps:

1. In 1998 15% of the shares were allowed to be sold at the stock-market, 15% were given to the employees.
2. In a second step, a strategic investor was to be found. The old telecommunications law that had designated the state as majority shareholder, was therefore changed in 1999. In 2000, 35% of the shares were sold to a consortium of France Telecom (25%) and the Kulczyk Holding (10%), with the option on another 10%. The award procedure was delayed, because the ministry rejected the first offer by France Telecom. The course of the public tender and the maintenance of the TPSA monopoly on the markets for long-distance and international calls show that the government aimed mainly at maximising the profits, instead of securing competition and expanding the telecommunications infrastructure. The content of the contract between France Telekom and the Polish government was not made public, which made the work of the regulatory agency more difficult.
3. In September of 2001, the consortium bought 12,5% instead of 10% of the shares. Prior to that, negotiations with the Ministry of the State Treasury had taken place. The ministry was interested in maintaining the expected profit to compensate for deficits in the national budget, but in the meantime the value of the shares had dropped (OECD 2002: 14). At present, government holds 17,92%

of the TPSA shares, France Telecom 33,93%, the Kulczyk Holding 13,57%, the Bank of New York 9,99%[7] and other shareholders 24,59%.

In the course of the liberalisation and privatisation of the telecommunications market it was problematic that the Polish government above all concentrated on trying to increase the value of the shares by holding on to the TPSA's monopoly on the sector of international calls and granting it privileges such as free licensing instead of supporting the development of a competitive market.

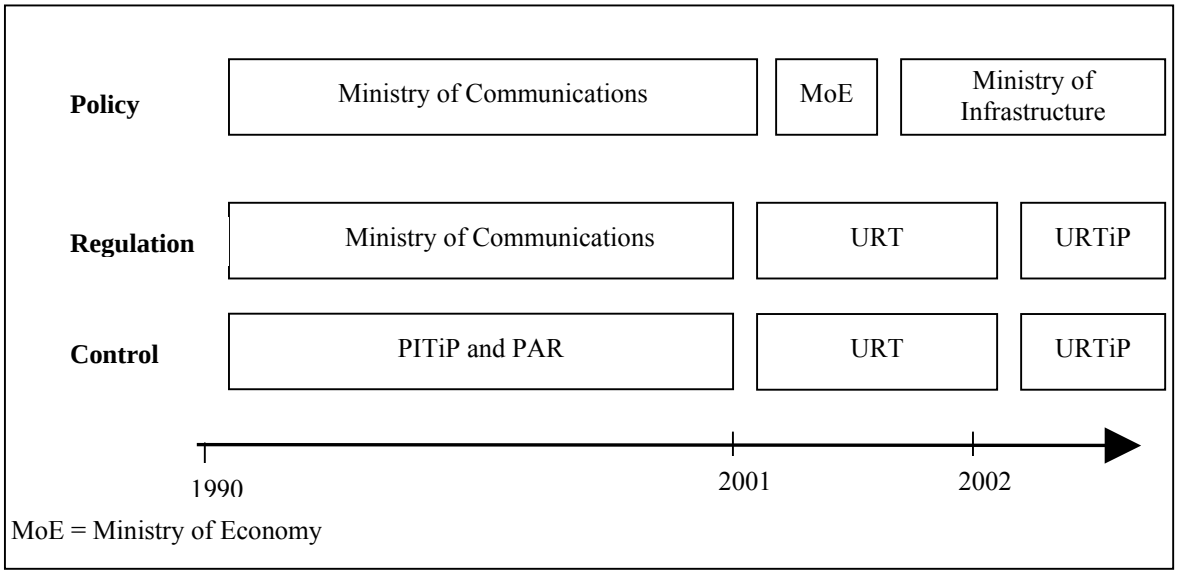
[7] Representing the owners of Global Depository Receipts (GDR).

3 Structural Changes in Telecommunications Administration

Polish telecommunications administration underwent deep changes in the period of 1989 to 2003 (see ill. 4). In the socialist countries as well as in most of the Western European countries, service provision and administration of telecommunication had not been clearly separated until the beginning of the 1990ies. The state-owned telephone company PPTT was administered by the Ministry of Communication.

In 1990, responsibility for policy-making and market-regulation were separated from telecommunications service provision, and at the same time, the telecommunications operator was separated from the post operator. The PPTT was transformed into the telephone company TPSA and the post operator Poczta Polska (see above). According to the telecommunications law of 1990 and its amendment in 1995, the Ministry of Communication was responsible for administration, control and coordination of the telecommunications sector. Consequently, it was in charge of telecommunications policy and regulation (licensing, network supervision, decisions on price-tables, etc.).

Illustration 4: Developments in telecommunications administration between 1990 and 2003



Source: Own Compilation.

The State Inspection for Telecommunication and the Post Office (PITiP), and the State Radio Inspection (PAR) were controlling bodies subordinate to the ministry. With the Office for Telecommunications Regulation (Urząd Regulacji Telekomunikacji, URT) in 2001, the predecessor of the URTiP, an independent regulatory agency was introduced.

In July of 2001, the Ministry of Communication was abolished. For a short period of time, telecommunications administration was integrated into the Ministry of Economy. Since October 2001 telecommunications administration is part of the Ministry of Infrastructure, the successor of the Ministry of Transport and Water Management.

3.1 Developments on the Level of the Ministries

In the following, the most important changes in the organisational structure of the ministries responsible for telecommunications will be described (see appendix, tab. 4).

1987 – 1990: Departmental Changes

In times of state socialism a separate Ministry of Communication had been responsible for telecommunication and post, and had run the state-owned telephone- and post-operator PPTT. In 1988, this ministry was integrated into the Ministry of Transport, Shipping and Telecommunications for a short while, and in 1990 a new Ministry of Communication was founded.

1990 – 2000: Continuity of Administrative Structures

According to the telecommunications law of 1990 and its amendment in 1995, the Ministry of Communication was responsible for the administration, control and coordination of measures in the sector of telecommunication. The legal status of the ministry was settled by the creation of the office of a Minister of Communication (1.12.1989) and by the provisions of the "Small Constitution" [8] in 1992.

The Minister of Communication was responsible both for politics and regulation. His tasks were laid down as follows:

- Creation of the conditions for the establishment, maintenance and use of telecommunication networks and means of communication in general
- Definition of the conditions for the organisation of telecommunication services
- Supervision of the technical conditions for the functioning and use of telecommunications devices.

[8] After the Round Table had introduced changes to the socialist Constitution in 1989, an interim constitution, the so-called Small Constitution was adopted in 1992. In 1997it was replaced by the Constitution of the Polish Republic that is in force until today.

Only the minister could issue licences and concessions for telecommunication service provision. Different regulations apply until today for the allocation of frequencies for the emission of radio- and TV-programs (Law of Radio and Television), responsible for that is the National Council for Radio and Television. In some of its regulatory tasks, the ministry was supported by the PITiP and the PAR. However, only the minister was allowed to issue generally valid decrees and decisions.

Until 2000, the development of the organisational structures of the Ministry of Communication[9] shows a remarkably small number of departments. In 1997, the Department for Regulation and Development was the only one responsible for telecommunications policy and regulation. In 1998, it was split into the Department for Regulation of the Telecommunications Market and the Department for Strategies and Developments in Telecommunication. This probably happened to stress the efforts to implement the „Strategy for the Development of Telecommunication", declared by the Polish government in 1996. In 2000, the organisational structure in the area of telecommunications regulation became yet more differentiated. Its tasks were divided between three departments.

Another striking feature of the organisational development is that between 1997 and 2000 the director general had no office of his own, but was supported in his work by other administrative units. This indicates a certain disesteem of this position, which had been given an important part to play in the implementation of a neutral and professional civil service according to the Civil Service Law of 1998.

2001 – 2003: Reorganisation of Telecommunications Administration

In January 2001, the Office for Telecommunications Regulation (URT) was established as an independent regulatory agency. This was a necessary adaptation to the EU legislation. However, this step also has to be seen within the context of the Reform of the Centre of Government in the years 1996 and 1997.[10] The ministries were to develop strategies and to concentrate on policy-making, while implementation was removed from the ministries to central authorities.

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[9] In so far as they can be traced back by reading the statutes. Organisational statutes of the ministry for communication exist only since 1997.

[10] The "Reform of the Centre of Government" in 1996 and 1997 helped to make the establishment of ministries more flexible, it is now done by decree and no longer by law. The number of ministries was reduced and the organisational structures within the ministries were standardised. The reform package intended to reorganise governmental structures, enhance steering capacities of the core executive institutions, adapt central government to the requirements of the EU accession process and to strengthen the position of the Prime Minister (see also Tragl forthcoming).

Numerous employees from various departments of the Ministry of Communications now moved to the newly founded URT. The transfer of staff happened before the necessary decrees for the new telecommunications laws had been written. In retrospect, this is seen as a mistake, because it resulted in a further delay of the formulation of the legislative basis of action for the URT (OECD 2002: 14).

In 2001, simultaneously to the foundation of the URT, the Ministry of Communication was restructured and divided into four departments: Technology, Strategy and Development of Telecommunications, Information Society, and Regulation of the Post Market. In spite of the repeated renaming and the later integration of the departments into other ministries, this organisational structure was preserved until the year 2003.

By setting up the URT and establishing a new division of labour between this agency and the ministry, the tasks of the minister responsible telecommunications changed as well (see OECD 2002: 15). The tasks of the ministry include:

- Formulation of the licensing principles and procedures,
- Determination of license fees and modes of payment for licences, frequencies and registration,
- Specification of the demands to service-quality, access to and number of public telephones,
- Development of criteria for the assessment of an operator's market share,
- Generating standards, firstly for fulfilling the commitments for interconnection, secondly for the interconnection fees of the dominant operator,
- Formulation of demands to the telecommunication networks and devices for protection against unauthorized access, and for building up an infrastructure
- Specification of demands to the management of numbers and of the conditions for particular radio services.

In July 2001, the Ministry of Communication was dissolved. One reason was that the status of the ministry had changed after the URT had been set up. The ministry had lost a significant amount of staff. Temporarily, only six people worked on the regulation of telecommunications *in sensu stricto* (OECD 2002). However, there was also a political reason for abolishing the ministry, a corruption affair that discredited the then minister Szyszko (Kudzia/Pawelczyk 2001). As a result, minister Szyszko was dismissed and no new minister appointed. The responsibility for telecommunications was transferred to

the Minister of Economy. The specialist departments that had been responsible for communication were integrated into the Ministry of Economy, and all departments that had been delivering general services for the ministry were dissolved. Staff from the administrative departments of the Ministry of Communications was only partly taken over, as the restructuring was also meant to achieve a reduction in the number of staff, when certain functions became redundant.

In October 2001, the Ministry of Infrastructure was established, and the departments for communication were incorporated. After an interim in the Ministry of Economy, the majority of employees from specialist departments were transferred to the Ministry of Infrastructure (Interview MinInf 2003). Being cut similarly to the Ministry of Transport, Shipping and Telecommunications of the years 1988/89, the Ministry of Infrastructure contains parts of the former Ministry for Transport and Water Management, parts of the dissolved Ministry of Regional Development and Construction, and the communications departments. On the one hand, the integration of the communications branch into the Ministry of Infrastructure means a return to previously existing structures, on the other hand it represents an adaptation to the allocation of these tasks in other countries, who do not have a separate Ministry of Communications either. As mentioned above, the structure of the departments remained unchanged. Nevertheless, their transfer disturbed the administrative work.

„All changes cause a terrible mess (…). You work in a certain organisational structure, then all that is changed and has to be newly laid down, business routines, all procedures. It was a muddle." (Interview MinInf 2003)

In 2003, there was another restructuring of the telecommunications pillar in the ministry. In April of that year the department for Information Society in the Ministry of Infrastructure was dissolved. The tasks connected to information technology passed over to the Department of Technology and Development of Telecommunications. Tasks concerning the content of internet publications were transferred to the appropriate department in the Ministry of Education and Information.[11]

In September 2003, the Departments Communication Technology and Development of Telecommunication were joined. Their tasks had already been closely linked before

[11] The background for this is the transformation of the Committee for Scientific Research (KBN), into the Ministry of Education and Information. Before, the responsibility for building up an information society formally was with the Minister of Education, practically with one of his Undersecretaries of State. Simultaneously though, there was a Department for Information Society in the Ministry of Infrastructure. Obviously, the creation of a Ministry of Education and Information represents an attempt to sort out these confusing responsibilities and to give it more importance in public.

(Interview MinInf 2003). Currently, the Department for Telecommunication consists of the following subunits:

- Subdivision Analyses of the Telecommunications Market,
- Subdivision Economy of Telecommunications,
- Subdivision Legal Acts in the Communication Sector,
- Subdivision Technology,
- Subdivision Standardization,
- Subdivision for European Integration.

The structure of the subdivisions remained the same as in the two original departments. The three first-mentioned subdivisions evolved from the Department of Development of Telecommunication, the last two from the Department of Telecommunications Technology. The subdivision for European Integration is the only new one.

Decision-Making Procedures in the Ministry of Infrastructure

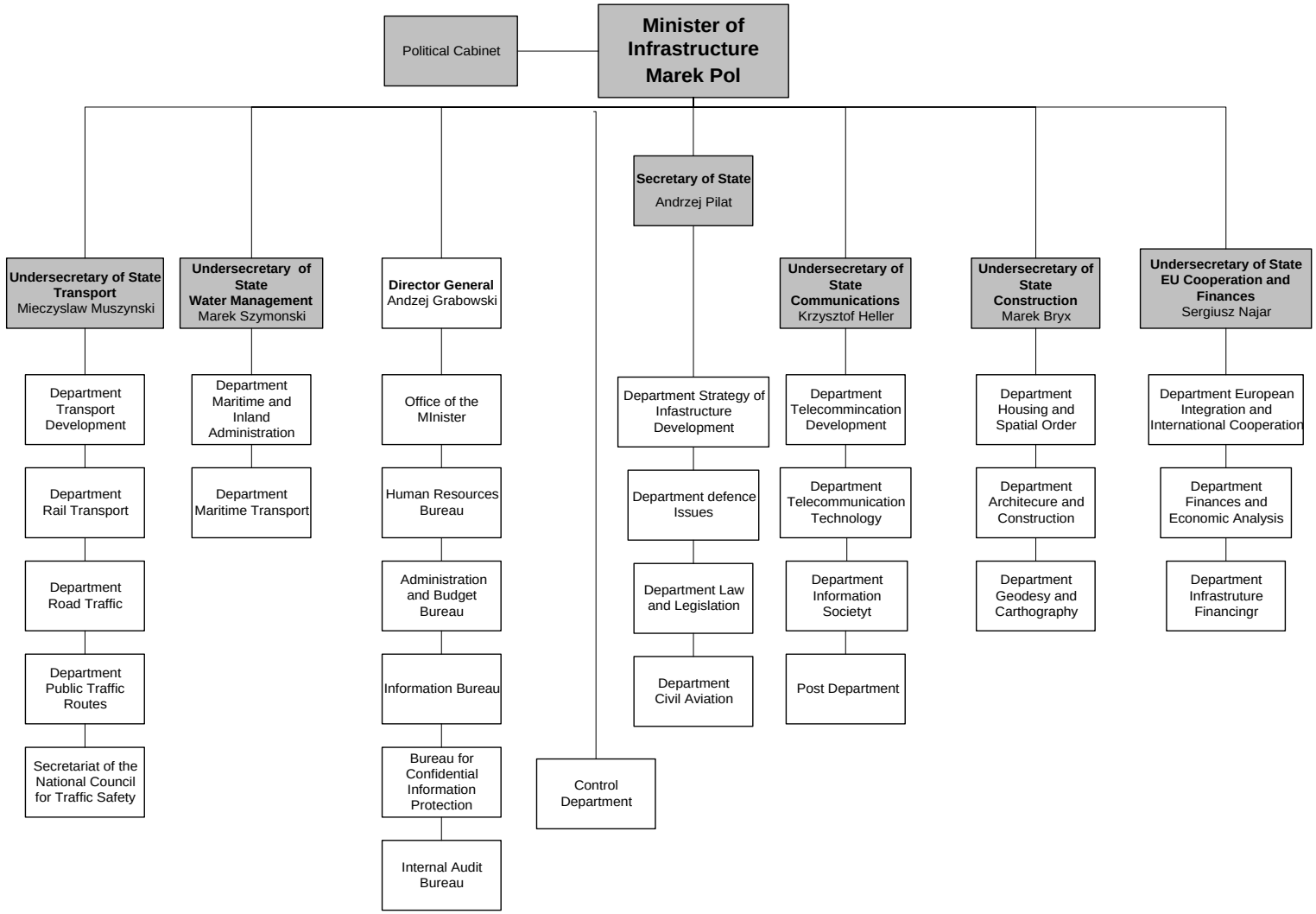
As becomes clear from the organization chart below (ill. 5), the telecommunications departments are allocated in a comparably large ministry with rather heterogeneous responsibilities. This has pros and cons for decision procedures within the ministry. An advantage might be that matters such as construction projects do not require the approval of the various ministries any longer but are decided within one resort. However, the administrative departments of the ministry, for instance the Legal Department or the subdivision for European Integration and International Co-operation, often do not have the necessary resources to provide special expertise for the telecommunications branch (Interview MinInf 2003).

Coordination within the large ministry with its many different spheres of responsibilities is mainly decentralized and managed by the Undersecretaries of State. They are granted much independence in their decisions. However, decisions concerning policies and strategies are reserved to the minister. As the minister's attention is often focussed on topics that promise more political profit, delays are possible.

"I have the feeling, it (the sector of telecommunication) is a bit peripheral, because there are such big subjects like highways, construction industry, railways, so communications is a bit…, it is important, everybody says it's important… I won't say the area is treated worse, of course all areas are treated the same, but you see that political attention is sometimes focussed on the subjects that are more profitable." (Interview MinInf 2003)

Interestingly enough, the interviewees in the ministry distinguished clearly between the programmatic-political aspects and the legal aspects of the decisions on their agenda. In decision-making procedures in the top level of the ministry, the Political Cabinet advises on political-strategic aspects, while the Undersecretaries of State take (or prepare) decisions on the basis of factual and legal considerations (Interview MinInf 2003). During the meetings of the top level both aspects are discussed in order to bring them into accord. The Heads of Department can give their opinion, but once a decision is taken, they have to translate it into action.

Illustration 5: Organisation chart of the Ministry of Infrastructure (March 2003)



Source: Translation by the author, according to www.mi.gov.pl

Inter-ministerial Coordination

For a wide variety of issues involving telecommunications administration, such as disaster control, war, tariff control or the state ownership in the telecommunications operator, inter-ministerial coordination is particularly important. The Ministry of Economy, the Ministry of Defence and, in questions of compatibility of laws with European legislation, the European Integration Office (UKIE) are involved in these coordination activities.

Since 1997, when the control of the TPSA shares owned by the state was handed over from the Minster of Communications to the Minister of State Treasury, also the Ministry of the State Treasury has its part in telecommunication politics. Because of the personal connections between TPSA and Ministry of Communications, Dornisch suspects that the actual control remained where it had been (Dornisch 2001:390). During the process of privatisation of the TPSA however, the Council of Ministries and the Minister of State Treasury in particular played a key role. The decision of the Polish government to raise the value of TPSA shares by preserving the monopoly in the sector of international calls and by granting other privileges was not a decision made by the Minister of Communications alone. It remains unclear whether there have been conflicts of interest concerning this issue, especially between Treasurer and Minister of Communications.

3.2 The Subordinate Authorities

3.2.1 PITiP and PAR: Controlling Bodies as Predecessors of the Regulatory Agency

Before the regulatory agency URTiP was founded, two subordinate controlling bodies, the State Inspection of Telecommunication and Post (Państwowa Inspekcja Telekomunikacji i Poczty, PITiP), and the State Radio Agency (Państwowa Agencja Radiowa, PAR) supported the Ministry of Communication.

The State Inspection of Telecommunication and Post (PITiP)

The PITiP controlled networks and systems in the field of telecommunications, and since 1995, also the activities of the Polish Post. The legal basis for the work of the PITiP had been laid down in the telecommunications law of 1990 (amended in 1995), a ministerial decree of 1996 and the organisation's statutes of the 21.2.1996.

The control organisation was subordinate to the communications ministry, but due to its special status, it had controlling functions that went beyond the telecommunications department. The chief inspector was appointed by the minister. The central office of the PITiP in Warsaw consisted of 6 sections with four offices and two autonomous workplaces. 10 regional inspectorates assisted the PITiP in fulfilling its tasks.

The particular functions, reflected by the organisational structure, were (see Gospodarek 1997: 296):

- Quality control,
- Control of Labelling and Homologisation,
- Detection of unauthorised use,
- Coordination of construction projects,
- Collection of telecommunication fees,
- Petitions for withdrawal of concessions, directed to the minister.

The State Radio Agency (PAR)

The PAR was responsible for controlling the networks and systems for radio communication and use of frequencies. Its predecessor in the times of state socialism had been the Polish Radio Inspectorate (Państwowa Inspekcja Radiowa, PIR). The PIR's chief sphere of activity had concerned the military sector and the blockade of "inimical", i.e., Western, radio stations.

Its legal basis was set out in the communications law of 1990 resp. 1995, and a ministerial decree containing the statute of the PAR. The PAR was not as directly subordinate to the ministry as the PITiP, their organisational statutes did not have to be confirmed by the minister (see Gospodarek 1997: 293). As a budget enterprise (*zakład budżetowy)*, PAR was able to cover part of their expenditures with their own revenues (technical examinations liable for costs, measurements, experts' reports, payment of fees for the use of frequencies, tests). Nevertheless, the director of PAR was appointed and dismissed by the Minister of Communications.

The central office in Warsaw consisted of the head of office, three departments (administration of radio frequencies, coordination and international co-operation, technical tests and control of radio emissions) and four offices (issues of defence, finance and economy, information technology, protection of secret information). In addition to that PAR had 16 regional offices.

The tasks of the PAR consisted in:

- Allocation of licences, frequencies and of homologisation-certificates in areas defined by the minister,[12]
- Limitation, refusal and withdrawal of licences,
- Prohibiting further use of applications and confiscating them in cases of unauthorised use or interference with frequencies.[13]

Licences for radio stations were (and still are) issued by the National Council of Radio and Television (Krajowa Rada Radiofonii i Telewizji, KRRiT), while the PAR had to do technical tests to see if a frequency was free. However, the PAR was accused of acting unconstitutionally by playing the part of the licenser, as it was said that the speed of the tests depended on personal relationships the applicants for concessions had, and of the bribes they paid (Janicki/Markiewicz 2000). From today's point of view, all this seems to herald the conflicts and accusations between KRRiT and URTiP of which PAR later became a part.

When the URT was established in the beginning of 2001, PITiP and PAR ceased to exist as independent units. The employees were taken over by the new regulatory agency.

3.2.2 URT/ URTiP as an Independent Regulatory Agency

The main reason for the establishment an independent regulatory agency in Poland had been the demands of the EU Commission. Already in the Regular Report on Progress in 1998, the Commission mentioned:

> "Progress is required to accelerate the enactment of the new telecommunications law and its implementing regulations and to ensure the establishment and independence of a National Regulatory Authority with a view to the implementation of ONP provisions and lines" (EU-Commission 1998:27).

The establishment of an independent regulatory agency was therefore a short-term priority of the Accession Partnership of 1999. With the new telecommunications law entering into force 2001, URT was finally founded. It was modelled on the Office for Energy Regulation (Urząd Regulacji Energetyki, URE) that was established in 1997 (Krupa/Kuźnicki 2001: 127).

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[12] The PAR was authorised to issue concessions for radio communication within buildings and for amateur radios.
[13] Objections have to be made to the minister.

Institutional Heritage, Models and Homemade Solutions: the Building of the URT

The URT replaced the PITiP and the PAR and took over both their employees and their financial resources. Formerly tenured officials became salaried employees in the sense of the Civil Service Law. Moreover, parts of the old Ministry of Communication merged with the URT (see above).

Before the URT had been established, there had been expert discussions on the role and legal status such an agency should have. Following the model of an independent regulatory agency, experts recommended that the URT as central authority should be independent of the Ministry of Communication and directly subordinate to the Council of Ministers (see Stachów 1998: 37). This advice was only partly put into practice. The URT was indeed subordinate to the Prime Minister who signed the statute and both appointed and dismissed the director of the URT. The URT/ URTiP director's period of office is five years and thereby independent of the parliamentary term. This is considered to guarantee his political independence. However, the director of the regulatory agency can be dismissed at the request of the Minister of Infrastructure, if "the government's political priorities" have been violated.

The founders of the URT had been orientated towards foreign examples (for instance the Spanish or the German regulatory agencies), but none was chosen explicitly as a model. Prescriptions made by the EU were not decisive for the organisational structures either (see above, Interview MinInf 2003).

The organisational structure of the URT/ URTiP has been set up according to the tasks that had to be covered, but it also followed institutional legacies (Interview URTiP 2003). The departments in the districts developed from the former branch offices of PAR and PITiP. The structure of the departments probably resembled that of the PAR and PITiP in the beginning, though this is difficult to verify in retrospect. The assumption seems plausible because when the ministerial departments concerned with telecommunications were integrated into the Ministry of Infrastructure, the procedure had been similar. In addition, the URT took over all employees of PAR and PITiP. When merging PAR and PITiP and parts of the Ministry of Communication to form URT, some difficulties had to be overcome. Experiences and work routines of three institutions had to be harmonised and new methods had to be created (Interview MinInf 2003).

The first director of the URT was Marek Zdrojewski, Minister of Communications from 1997 to 1999. He was a member of the conservatist party ZChN. In times of

centre-right governments the Minister of Communications is usually a member of this party (see Tab. 2). Zdrojewski resigned in October 2001, shortly after the government of Prime Minister Leszek Miller (October 2001 to May 2004) came into power. It remains unclear whether his resignation was a result of political pressure exerted by the new party or whether he had planned his resignation already before the election. Kazimierz Ferens succeeded him as director of the URT.

Shortly after it had been set up, the URT became vulnerable. In the course of the campaign „Tańsze Państwo“ (Cheaper State), the government of Leszek Miller planned to take budget cutting measures by closing down or merging agencies and various central offices. Such reflections concerned twenty different authorities. Originally, the URT was also to be closed and reintegrated into the Ministry of Communication. This was averted however, because many politicians and representatives of the telecommunications industry criticised the government's plan and stressed the need for an independent regulatory agency, especially in view of joining the EU.

Instead of closing the URT, it was changed into the Office for Regulation of Telecommunications and Post in April 2002 (URTiP), which meant that the responsibility for regulation of the post market was integrated. Formally, this was done via closing down the URT and creating the new URTiP, so that it was possible to change the director of the organisation before his term of office ended. Witold Graboś, member of the SLD and former member of the KRRiT, became the new director. The number of staff was reduced by 150 (see below). Some changes were introduced, concerning the position of the URTiP with regard to the Ministry of Infrastructure. Today, the URTiP is not longer directly subordinate to the Prime Minister. Instead, the Minister of Infrastructure supervises the agency. This means that the director and his representatives are appointed at the request of the minister, that he signs the URTiP-statute and receives the agency's annual report.

Organisational Structure of the Regulatory Agency

The URTiP has its head office in Warsaw. Its head official is the director mentioned above. He has two deputies, one for telecommunications and one for post. Two advisory councils are subordinate to the director, the Council for Telecommunications and the Council for Postal Services. The councils only offer advisory services, they are not authorised to make decisions. In the Council for Telecommunication there is one representative each of the Ministry of Infrastructure, the Ministry of Defence, the

Ministry of the Interior, the KRRiT, the Internal Security Agency and of the UOKiK, as well as representatives of various research institutes, sectoral interest groups and enterprises.

The head office of the URTiP consists of the director's office, 10 departments dealing with different topics and two autonomous workplaces. The departments are split into sections (see ill. 6). Most important in URTiP are the Telecommunication Market, Administration of Frequencies and Finance and Budget (Interview URTiP 2003) departments. In addition to that there are the district departments in the voivodships who have controlling tasks.

According to its employees, flat hierarchies and decentralised decision making processes are characteristic of the work in URTiP. The heads of department can make independent decisions, and the decision making processes within the departments are described as decentralised as well. However, this cannot be said for all departments, as it requires a work climate of mutual trust. On the whole, the heads of department who were interviewed praised the good work climate of URTiP, the well picked and highly qualified team of directors, and the good co-operation with its present director, Witold Graboś.

The Tasks and Responsibilities of the Regulatory Agency

The tasks of the URTiP (see www.urtip.gov.pl/informacjeogolne.asp, 19.2.2003) are:

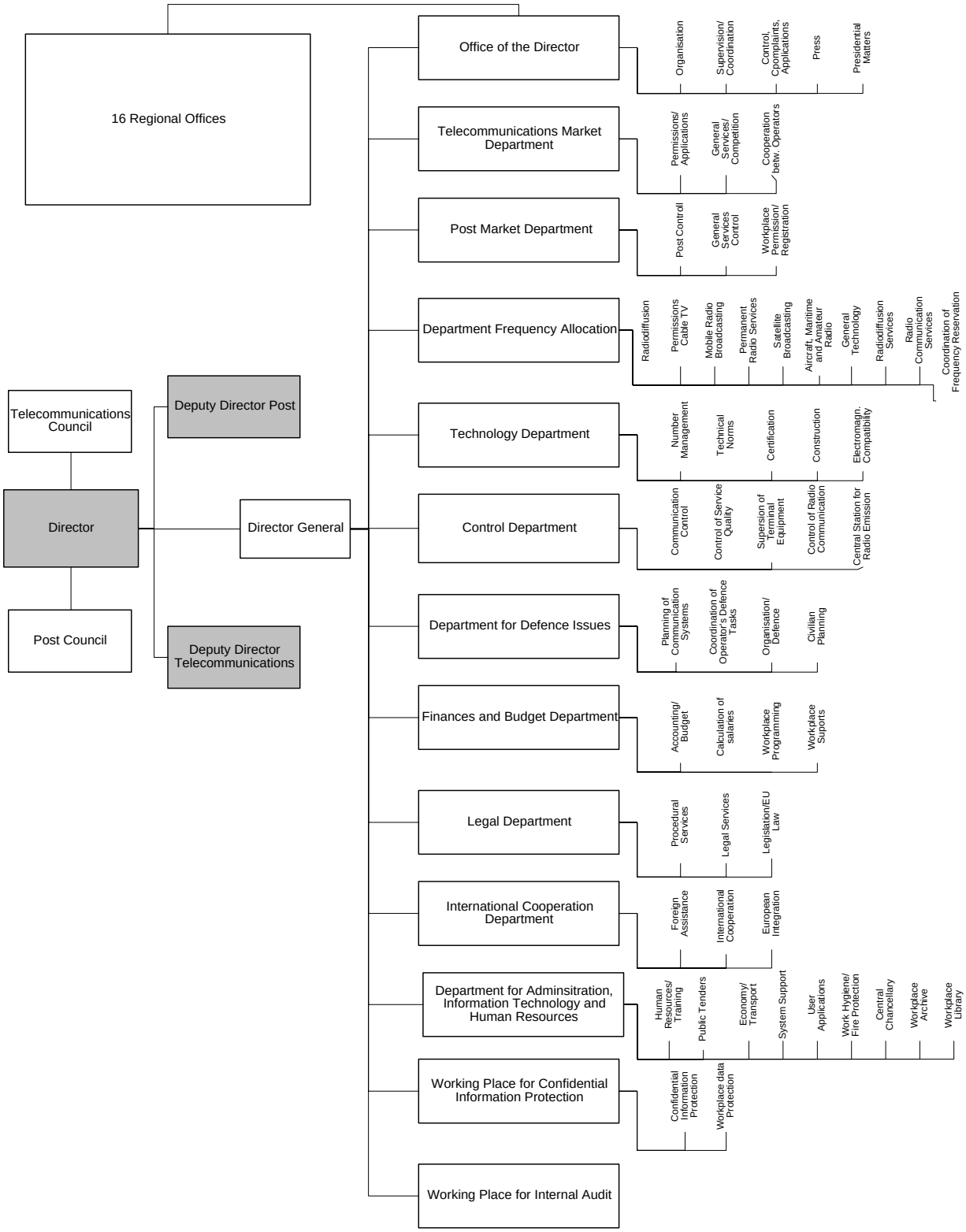
- Tasks concerning the regulation and control in the areas of telecommunication and frequency management, as well as electromagnetic compatibility,
- Co-operation with the minister in charge of telecommunications in the preparation of legal transactions,
- Market observation,
- Market intervention,
- Providing the conditions for the development of radio communication and the access of Poland to a satellite,
- Fulfilling obligations regarding the defence and security of the state,
- Co-operation with international organisations,
- Decisions in cases of dispute,
- Stimulation of research,
- Co-operation with the UOKiK concerning anti-monopoly measures.

The responsibilities of the independent regulatory authority are designated to the director of the URTiP, in the legal sense the office serves as his "auxiliary apparatus". To enable him to fulfil his tasks, the director of the URTiP is authorized to (Krupa/ Kuźnicki 2001: 131):

- Allocate, limit and withdraw permissions,
- Allocate frequencies (except in cases the KRRiT is responsible for),
- Oblige telecommunication service operators to present price lists and reports on their activities,
- Oblige the dominant operator to submit contracts guaranteeing basic services,
- Identify, in correspondence with the UOKiK, the operator with significant market powers (SMP),
- Control the adherence to regulations in the sector of telecommunication, taking measures for the elimination of interferences,
- Impose fines.

The director of the URTiP is not authorized to introduce legislative initiatives of his own or to issue generally binding decrees. The reason for this is that the Polish legislative system is a "closed system of legislation", i.e., the authorities that can initiate legal procedures are defined by the constitution. According to the constitution, the URTiP is no legislative institution.

Illustration 6: Organisation chart of the URTiP



Source: Translation following URTiPs profile on www.urtip.gov.pl (25.3.2003)

3.3. Budget and Staff of the Telecommunications Administration

Structure of Staff

When the URT was founded, many employees from the ministerial departments were transferred to the regulatory agency, so that in the ministry at times only six people worked on the regulation of telecommunications in the *narrow* sense (OECD 2002: 14). During the following years staff in the ministry was increased, so that in January 2003, 54 employees worked in the four ministerial departments responsible for communication (see table 1). On the whole, the Ministry of Infrastructure has a staff of about 600 people.

Some of the employees of the communications departments had worked for the former Ministry of Communication before, some were newly recruited from companies in the telecommunication sector, from the TPSA and from scientific institutions.

Table 1: Employees in the Ministry of Infrastructure (January 2003)

Dep. Development of Telecommunication	16
Dep. Telecommunications Technology	13
Dep. Information Society -	10
Dep. Post	15
Communication Departments altogether	54

Source: Ministry of Infrastructure, January 2003

The URT started with about 750 staff (including the sixteen regional offices), as it had taken over the employees of PAR, PITiP and some of the employees of the Ministry of Communication. When the agency was restructured and the URTiP was put up, about 150 people were laid off. However, the URTiP, with its remaining 614 employees (IBM 2003), is still very large in comparison to the agencies for telecommunications regulation in other European countries. The OECD recommends to source out some tasks, especially in the field of frequency management, in order to ensure the concentration on the URTiP's main regulatory tasks (OECD 2002: 16).

At the same time, there have been complaints both by URTiP and in EU Progress Reports about the shortage of specialists. In our interviews, employees of URTiP stated that the agency needs more staff to be able to fulfil its duties and assert its position after joining the EU. The heads of department also voice need of staff, but this is opposed by budget restrictions.

In order to recruit qualified staff, the URT had originally planned to approximate their employees' salaries to those paid in private companies, instead of paying them according to the pay-scale in the public sector. This policy was only partly followed.

There is a special bonus fund, and at the request of the section directors, the bonuses are divided among the employees. Due to the relatively low salaries, the enticement of staff by private companies and the pursuance of second jobs for extra money remain a problem. The URTiP has far less financial and personnel resources than TPSA.

„The TPSA is a very rich institution and can employ any specialist on the market, pay him a certain amount and confront that with our possibilities. And unfortunately it often happens that he is better… To get such a specialist working for us would certainly be useful, but it exceeds our financial possibilities." (Interview URTiP 2003)

As mentioned before, some of URTiP's employees have worked for the predecessing institutions and some are newly recruited. The interviewees often did not understand the question, whether ways of thinking from the past still played a part in today's work. They interpreted it as referring purely to their work experience. Only one interviewee said that in the early days of the URT, many employees had been working in similar positions and kept using the same methods, meaning that informal contacts were very important and handing over small presents made things happen faster. They said that especially older colleagues had no idea of modern management techniques. But the top management of the URTiP is engaged in a reform of the internal management techniques. Instruments for the control of objectives and completion of tasks are being prepared and tested, and a system of quality control is being introduced as well.

Assessments on Politicisation of Staff Recruitment

In times of centre right governments there were many complaints that the administration of telecommunication was too politicised. The Ministers of Communication (see Table 2) usually came from the ranks of the ZChN, and the most influential positions in the inspectorates of PAR and PITiP, in the Polish Post Office and years before, also in the URT were filled with party members as well.

Several of the interviewees said that in the URT and during the early period of the URTiP, political allocations of jobs did indeed take place. Also in the ministry, a change of government still may result in a change of staff down to the level of heads of department, disregarding the regulation that these are positions that should be occupied by civil servants only. This is nevertheless a common phenomenon in the Polish ministerial administration. Telecommunications administration is even a branch providing many counterexamples to that, i.e. heads of department who have kept their positions through several changes of government.

Table 2: The Polish governments and the ministers responsible for telecommunication

Period in Office	Prime Minister	Coalition Parties	Minister in Charge of Telecommunications	Period in Office
9/1989 - 12/1990	T. Mazowiecki	Solidarność, SD, ZSL	Marek Kucharski (SD) Minister of Communication	12/1989-9/1990
			Jerzy Ślężak (?) Minister of Communication	9/1990-12/1990
1/1991 - 12/1991	J.K. Bielecki	KLD, PC, ZChN, UD, SD		171990-12/1991
12/1991 - 6/1992	J. Olszewski	ZChN, PSL, PC, PL, PSL „S"	Marek Rusin (parteilos) Minister of Communication	12/1991-6/1992
7/1992 - 10/1993	H. Suchocka	UD, ZChN, KLD, PL, SChL, PPG, PChD	Krzysztof Kiljan (KLD) Minister of Communication	7/1992 - 10/1993
10/1993 - 3/1995	W. Pawlak	SLD, PSL	Andrzej Zieliński (parteilos) Minister of Communication	10/1993 - 3/1995
3/1995 - 2/1996	J. Oleksy			3/1995 - 1/1996
2/1996 - 9/1997	W. Cimoszewicz			2/1996 - 971997
10/1997 - 6/2000	J.Buzek	AWS, UW	Marek Zdrojewski (ZChN) Minister of Communication	10/1997 - 3/1999
			Maciej Srebro (ZChN) Minister of Communication	3/1999 - 3/2000
6/2000 - 10/2001		AWS	Tomasz Szyszko (ZChN) Minister of Communication	3/2000 - 7/2001
			Janusz Steinhoff (PChD) Minister of Economyt	7/2001 - 10/2001
10/2001 - 2/2003	L. Miller	SLD, UP, PSL	Marek Pol (UP) Minister of Infrastrukture	10/2001 – 5/2004
3/2003 - 5/2004		SLD, UP		

Source: Own Compilation

At present, opinions regarding politicisation are ambivalent. After the SLD-government came into power 2001, the holders of key positions were replaced. The first URT-director Zdrojewski, for example, resigned shortly after the change of government, and later on the position was filled by Witold Graboś. Critics say that the main purpose of the transformation of URT into URTiP was to change the director. It has also been noticed that many leading managers in the URTiP were exchanged after the new director Graboś entered office. It is difficult to assess , whether these

recruitments have been made for party political reasons or for reasons of professional qualification. Many interviewees hold the opinion that the politicisation in telecommunications administration is decreasing and that political parties do not have influence on filling the positions of heads of department in the regulatory agency. It is stressed that telecommunications policy requires a lot of expert knowledge, which in turn contributes to the stabilisation of personnel. It is rather the enticement of personnel by private companies that has a destabilising effect.

"There certainly were situations, especially in the regulatory agency, in which there were political appointments. …. it was treated as a kind of storage, a place to store various people. I must admit, there were big differences of skills among the civil servants in URTiP… Not only was there a positive selection, the best being dragged away, but one also gradually got rid of those who did not prove themselves." (Interview MinInf 2003)

"At present, telecommunications is a sector demanding profound expert knowledge – obviously, if somebody was a veterinarian, he will hardly become a telecommunications specialist all of a sudden. In my opinion, this has a positive influence on a certain stabilisation. On the other hand, it is not the political but the market mechanisms that have an effect concerning specialisation: When the telecommunication companies developed so dynamically, they just pulled out people, because they could offer them better financial conditions…" (Interview MinInf 2003)

„I hope the situation we currently have in this agency will remain the same in the coming years, that nobody will try to put political pressures on matters concerning personnel, because this really is hard, skilled work… and there is a customer, for whom things have to been done in time, politely and well." (Interview URTiP 2003)

The question of politicisation is linked to the question of the establishment of a civil service. Currently four members of the URTiP staff are civil servants. This low number is exemplary for the Polish public administration. The reason for this is that the Civil Service Law makes high demands on future officials.[14] The certified command of two foreign languages is considered to be the demand most difficult to fulfil.[15] Moreover, the figures and deadlines the Polish government foresees concerning the nomination of officials in the entire civil service are unrealistic because the state budget does not provide enough financial resources.

From the point of view of an employee in public administration, there is little incentive to become a civil servant. The status of a civil servant certainly implies maximum job security, but those concerned know that there are other ways than formal dismissal to give them notice. At the same time, being a civil servant implies a high commitment to public administration. The small salary in administration and the

[14] They have to be employed in public service for a minimum of two years, to prove certified knowledge of two foreign languages and to take an examination.
[15] Plans to introduce two categories of civil servants are assessed to be reasonable but for URTiP with its international tasks the knowledge of foreign languages is a sine qua non. When new employees are recruited, this is made an criterion.

political instability make the decision to become civil servant rather difficult, especially for those in upper management positions. One interviewee held the view that the political culture in Poland on the whole is not yet ready for a politically neutral administration. The regulation that only occupants of political positions would be replaced after elections is not always followed, and many politicians are not aware of the fact that a professional, politically neutral administration is a value in itself. For the establishment of the civil service, a gradual transition seems most realistic (Interview URTiP 2003). Nevertheless, competitions for civil servants are planned to fill the posts of section directors in the URTiP.

Some Aspects of the URTiP Budget

The financial resources of the URTiP are provided by the national budget. According to the National Budget Act of 2003, an amount of 60,802 million PLN was earmarked for the URTiP. The profits it makes from licensing frequencies, from allowing the use of telephone numbers and offering other services liable to costs have to be paid back to the national budget. Expert reports (see IBnGR 2002) criticise that the independence of URTiP is limited due to being exclusively state-funded. They suggest, that the URTiP could to a greater extent directly rely on its own revenues.

According to the Budget Act, the URTiP's profits were supposed to amount to 163135 million PLN in 2003. After the amendment of the telecommunications law, inflows from licences account for only a small amount of the receipts. In sum, the URTiP generates considerable payment surpluses for the benefit of the national budget. According to the telecommunications law, part of the receipts can go back to the URTiP as so-called "special funds" (*środek specjalny*). These means can be used to pay for open tenders, for purchasing technical appliances and for commissioning scientific reports, as well as for paying out bonuses for the employees, a possibility that according to the employees has not yet been used.[16]

[16] It is therefore unclear, where the money for the present premium fund system in the URTiP comes from.

4 The "Main Players" in the Regulation of Telecommunication: Distribution of Responsibilities and Coordination

4.1 The Ministry and the Regulatory Agency

The responsibilities for policy-formulation and for the implementation of regulations were separated only when the URT was set up in 2001. Since then the minister is responsible for the development of policies and long term strategies, and for laying down the conditions for the access to the market. On the basis of the telecommunications law and the decrees for their implementation, the regulatory agency implements the regulatory policy.

To guarantee its independence the regulatory agency originally was supposed to be subordinate and accountable directly to the Prime Minister. Accordingly, the first director of the URT in 2001 answered to the Prime Minister. With the reform of the central authorities, and with the URT changing into the URTiP in 2001, the relations between URTiP, Prime Minister and the Minister of Communications changed. The URTiP now is connected more closely to the Ministry of Communication and it is listed among the ministry's subordinate authorities. The minister gives the statute to the URTiP and the URTiP is now accountable to the Minister of Infrastructure, not to the Prime Minister any more. On the basis of the annual statement of accounts, the ministry controls to what extent the URTiP fulfils its tasks. This control concerns formal procedures rather than the content of decisions. According to present legislation, the Prime Minister still appoints the director of the URTiP, but upon the recommendation of the responsible minister. The five-year term of office of the URTiP director is still supposed to ascertain his independence vis-à-vis the acting government.

As far as the distribution of responsibilities is concerned, nothing has changed between the URTiP and the ministry. The ministry still perceives the URTiP as an independent body.

> "When there is a decision of the director [of URTiP], it is at no stage revised by the ministry. The director makes his decisions independently, and if there is a complaint – a carrier may not agree with a decision – one can appeal to the URTiP, if no agreement is reached, the court will decide, either the administrative court (most often) or the anti-monopoly court." (Interview MinInf 2003)

The ministry has no legal possibilities to influence the choice of personnel or regulatory decisions. Before the URTiP director takes important decisions, he consults the ministry, but in the end he decides independently.

Shortly after foundation of the agency, there were doubts whether the tasks now fulfilled by the URT could not just as well be taken care of by the ministry itself. This opinion met strong opposition and the regulatory agency continued to exist. A different solution would certainly have led to conflict with the EU-Commission. It seems, however, that in some respects the shift of powers from ministry to regulation authority has not been carried out strictly enough. One example is, that the URTiP cannot issue generally valid decrees. This is considered by various experts (OECD 2002: 53, IBnGR 2002) to be the most serious limitation of its power. Such decrees are part of the generally applicable sources of law and only institutions that are constitutionally entitled to do so may issue them. These institutions are the Sejm, the Senate, the President (with regard to the ratification of international treaties), and, as far as decrees are concerned, the Council of Ministers and its members. The Constitution names the KRRiT as the only further authority entitled to issue decrees.

The URTiP however works on the basis of ministerial decrees, and it is imperative that it can exert influence on the phrasing of such decrees and contribute its own point of view (OECD 2002: 53). The regulatory agency is therefore supposed to be involved in consultations and the formulation of political decisions, and it can cooperate with the ministry on drawing up bills and regulations. In practice, the secondary legislation to the telecommunications law is still incomplete. Missing or incomplete decrees disable the URTiP of action (Interview URTiP 2003). Since April of 2002 the URTiP assists in the drafting of decrees. Teams consisting of URTiP employees and of those from the ministry now work together on drafts, so that in day-to-day business there is frequent contact between ministry and URTiP. Both aspire to work closely together and to profit from the effects of synergy. Due to the shortage of staff in the ministry, the URTiP quite often takes care of the preparatory work for tasks, which from the legal point of view are within the responsibility of the ministry.

The URTiP director furthermore is not authorised to submit legislative initiatives, this right also is reserved for the representatives of the Sejm, the Senate, the Council of Ministerste and the President. The director can only try to obtain a hearing of his proposals in the ministry.

"The director of an authority has no power to introduce legislative initiatives. Most of the problems we have in our contacts with the Ministry of Infrastructure are related to this. Certain misunderstandings are frequent, because the point of view of the agency is not sufficiently considered." (Interview URTiP 2003)

Status and responsibilities of the URT are judged by critics to be disappointing, de facto the director can be dismissed, which restricts his political independence and he is not entitled to issue generally valid ordinances. (IBnGR 2002: 114).

4.2 Regulatory Agency and Anti-Monopoly Office

Before the URTiP was established, the Office for Competition and Consumer Protection (Urząd Ochrony Konkurencji i Konsumentów, UOKiK) played the key part in the deregulation of the telecommunications market, because the Ministry of Communication which was in charge, remained rather passive. The Polish Law on Competition is applied on the telecommunication sector in the same way as on other sectors of economy. The instruments of this law were therefore utilised in most cases against the monopolist TPSA before the URT was established.

The UOKiK was founded in 1990. It is a central authority whose director, interestingly enough, is not appointed, but chosen in a competition procedure. He has two deputies. The UOKiK is divided into 9 departments. In the Department for Industry and Infrastructure, there is a unit for Communication and the Media. Three of its employees are principally involved in telecommunication (OECD 2002: 36).

The UOKiK takes action at the request of commercial enterprises, self-governing bodies, organs of state or consumer organisations. It can also decide to take action ex officio. Objections can be filed at the anti monopolist court.

Since 1990, the UOKiK dealt with over a hundred cases of monopolist practice in the sector of telecommunication. In the first years the cases frequently had to do with individual subscribers or communities, on whom contributions for the extension of the telephone network had been imposed.[17] In the last years, the majority of UOKiK's interventions had to do with the price policy of the TPSA and the interconnection contracts with other operators. Some important examples are the decision concerning anti-competitive tariff structures in 1997, excessive charges for rented lines, the prevention of the interconnection of the TPSA-network with other carriers, the delay of further interconnection contracts in 2000 (see OECD 2002: 36). Several times, the UOKiK imposed high fines on the TPSA, after the latter had not complied with itsr decisions.

[17] In some cases, such payments for a telephone connection had to be declared to be "donations" and transferred to a separate account (see UOKiK 2003).

Since the URTiP exists, the telecommunications law foresees co-operation between the regulatory agency and the anti-monopolist office. URTiP and UOKiK cooperate for example on the definition of the operator with significant market powers. At the request of operators and the URTiP, the UOKiK examines cases where monopolist positions have been abused and imposes fines after consulting URTiP. In some respects, the distribution of responsibilities is not clearly defined. If a contract on cooperation of two operators cannot be concluded for example, both institutions can decide disputes. If carriers fail to fulfil their obligations, both URTiP and UOKiK can impose fines.

In the course of the last years, the UOKiK repeatedly imposed fines on the TPSA for abusing their monopolist position. One of the most prominent cases was a fine of 54 millions of PLN in 2001, when the TPSA had flouted a decision of 1998 regarding the balancing of the tariff structure. The TPSA appealed against the decision and the anti-monopolist court annulled it. In 2003 the TPSA was fined 7 million PLN for increasing the subscription fees for the ISDN-users. Interestingly enough, the UOKiK acted on request of the URTiP in this case, as the URTiP did not possess any instruments within its area of responsibilities to sanction the TPSA.

In cases which are within its area of responsibility, the URTiP takes action as well and it also imposes fines, for instance if operators give wrong information, or in matters of basic services and obligations resulting from the interconnection of networks. In 2001 the URT-director of the time, Ferenc, imposed a record fine of 350 million PLN on TPSA, firstly for giving wrong information, secondly for failing to fulfil obligations resulting from the contract on interconnection of networks with the operator NOM. However, this decision was annulled by URTiP's new director Graboś, who claimed that the legal basis was insufficient. Neither for the UOKiK nor for the URTiP high fines appear to be an effective means of sanction.

Most coordination problems between URTiP and UOKiK arise when responsibilities in individual cases are unclear so that none of the two institutions feels responsible. Bearing in mind the restrictions of the URTiP's powers, the OECD (2002) recommends that the UOKiK continues to play an important part in telecommunications regulation as far as competition policy is concerned. Both institutions should come to a formal agreement on responsibilities, cooperation and a common terminology (OECD 2002: 37). A Polish expert report (IBnGR 2002), referring to advice from the OECD, as a more extensive solution recommends to allocate all powers concerning technical

regulations and protection of competition rights with the sectoral regulatory agency, the URTiP.

4.3 The Regulatory Agency and the KRRiT

The National Council for Radio and Television (KRRiT) is the supervisory body for the radio and TV programs. It was founded in 1992 and according to the Constitution, it shall "safeguard the freedom of speech, the right to information as well as safeguard the public interest regarding radio broadcasting and television" (Art. 213, Constitution of the Republic of Poland). It is entitled to collaborate on the development of government policies in the areas of radio and TV, to evaluate draft laws and international contracts, to issue concessions for broadcasting of particular programs and to determine the level of subscription fees.

The KRRiT consists of nine members, delegated by Sejm, the Senate and the President. The members are elected for a period for nine years. An office with 160 employees supports the Council in the fulfilment of its tasks. The Council Office is headed by a director and consists of the following departments (Source: http://www.krrit.gov.pl):

- Director's Office
- Concessions
- Programs
- Public Relations
- Law
- Technology
- European Integration and International Co-Operation
- Commerce
- Finances
- Administration and Budget

As the office of the KRRiT is not subject to the Civil Service Law, its employees do not have to be civil servants. A former employee stated that the office is strongly politicised, with the political parties exerting influence both on the staffing and the work itself. Recently, the KRRiT was brought into discredit by some of its members who

were involved in the so-called Rywin affair, which concerned the amendment of the law on radio and TV.[18]

The responsibilities of KRRiT and URTiP respectively are laid down in the law on radio and television and in the telecommunications law. Although formally there is a clearly defined division of labour, competitive situations and conflicts between KRRiT and URTiP still occur. One example concerns the allocation of frequencies for radio and TV programs, which demands an agreement of both institutions. The URTiP is not concerned with granting concessions to a particular station, but with the electromagnetic compatibility of the transmission frequencies. Conflicts in this field occur in spite of the clear division of tasks (Interview URTiP 2003).

In the discussion on the resolution of responsibility conflicts, there are more and more proposals to transfer areas of responsibility and even to merge URTiP and KRRiT. However, the members of the two organisations hold quite different views how this should proceed, and a certain "departmental egoism" becomes apparent. Both institutions are concerned not to reduce their area of responsibility in favour of the other one. Members of telecommunications administration for example do not consider the transfer of the entire sector of frequency licensing to the KRRiT a good solution. The argument is, that this is a technically sophisticated task requiring international coordination, and the URTiP already has the necessary service network at its disposal. The KRRiT, on the other hand, criticises that the presently proposed amendment to the telecommunications law intends to leave regulation in the fields of digital radio and TV entirely to the URTiP and to shunt off the KRRiT to an "analogous ghetto" (Gazeta Wyborcza 2003).

The merging of the regulatory agency for telecommunications URTiP and the Council for Radio and Television KRRiT represents the most far-reaching proposal. At present, some other European countries, such as Great Britain founding the OFCOM, proceed like this. The merging appears reasonable because the latest EU directives on telecommunications presuppose far-reaching convergence in the media sector, and are

[18] The well known Polish film producer Rywin promised Michnik, the editor of the biggest Polish daily newspaper (Gazeta Wyborcza) against a payment of 17.5 million US dollars, to exert influence on the present radio- and television law and thereby strengthen the position of the publishing house in the Polish media scene. Michnik rejected this offer. The Rywin affair is one of the biggest corruption scandals in the Third Polish Republic, in which important politicians all the way up to the Prime Minister played a part. To date it was has not been clarified entirely who from the Polish media had been entangled in this affair and what part individual employees of the KRRit played in it.

therefore phrased technologically neutral. They do not only refer to classic telecommunications but include radio and television.

Members of both institutions consider a merger to be useful, but they don't seem to join forces in preparing this project conceptually. In late 2003, an analysis by the KRRiT was released (KRRiT 2003). It recommends to unite the KRRiT (respectively their offices) and the URTiP to a new institution that should be responsible for the regulation of telecommunications, radio and TV and attend to questions of technical regulations as well as to competition regulation and program supervision. This authority is to be headed by a committee whose members are appointed by the Sejm, the Senate and the President, similar to the current procedure applied to the KRRiT. The report mentions that it is necessary to de-politicise the committee and make changes with respect to the appointment of its members. However, these changes only affect the right of proposal that should be granted to the ombudsman, trade organisations, the journalists' association and others should have to choose the members. The suggestions do not go as far as those that had been made considering the political independence of the URTiP director.

In principle, it is reasonable to join forces and establish a comprehensive regulatory body with far-reaching responsibilities. The question remains how to ensure the political independence of this agency, as long as it is headed by a council whose members are politically nominated. This results in an influx of the party-political interests of old boys' networks into the committee, which is certainly detrimental to efficient regulatory work. After all, it was the politicisation of the KRRiT that contributed to its present difficult situation. Furthermore, the report does not take into account the difficulties of ensuring competition on the telecommunications market, but deals nearly exclusively with questions of program regulation. This suggests that the report basically represents an attempt to resolve responsibility conflicts by co-opting the other institution.

There is still a long way to go until the above-mentioned problems can be resolved via a merger of KRRiT and URTiP. For the time being, a clear separation of the responsibilities of the two authorities remains on the agenda.

5 Conclusions

To sum up, one can say that the developments in telecommunications regulation in Poland do not differ greatly from that in Western European EU member states. Due to the fast developments and enormous changes in the telecommunications sector during the 1990ies, also tasks and organisational structures of its administration changed considerably. Communist legacies today play only a minor role in telecommunications administration, they can be observed only in mentalities and work routines of some elder employees.

In Poland, as in other EU states, the state-owned telecommunications company was separated from the post operator in the early 1990ies and privatised in the following years. Before the present regulatory regime was introduced in 2001, the responsibilities for regulation were completely left with the Ministry of Communication. Later, the independent regulatory agency URTiP was founded and market liberalisation began. In Poland as in other EU countries this was to a high degree caused by the necessary adaptation to EU telecommunications policies. It was only in the first years of the 1990ies that Poland chose a special path in telecommunications policy when it liberalised local networks prior to other market segments.

The EU pressure was particularly effective in Poland as an acceding country, because implementing the *acquis* was a condition for EU accession. Furthermore, the acceding countries were subject to tight monitoring by the EU Commission, as can be seen in the Regular Progress Reports. The establishment of the regulatory regime prevalent in the EU, and the founding of an independent regulatory agency thus represent a case of institutional isomorphism. Coercive mechanisms rather than voluntary adaptation are effective here. Domestic political actors blocked market liberalisation for a long period of time and the regulatory agency was established only as a reaction to the requirements for EU accession. For this reason, one can agree with DiMaggio and Powell (1991), who speak of the effect of „coercive institutional isomorphism“.

If the degree of political independence of the Polish regulatory agency is evaluated by the indicators mentioned above (degree of party political influence via appointment of the agency’s director, dismissals and resignations before the end of the period of office, duration of the term of office, financial and personal resources of the agency, possibilities of politicians to revise the IRA’s decisions) one realises that independence is de facto quite limited. There were politically influenced appointments of directors as

well as premature resignations. But politicians cannot influence the URTiP's decisions directly.

But this characterisation also applies to regulatory agencies in Western European countries. For instance, a not fully independent status of the regulatory agency in relation to the responsible ministry can be found in Great Britain and Germany as well (see Böllhoff 2002 and 2003). Also the problematic relations between the regulatory agency and other relevant institutions observed in the Polish case are well known in other countries, particularly the unclear division of responsibilities with the anti-monopoly office is a common problem - "there are few, if any, countries where that division can be regarded as finally settled" (OECD 1999: 8).

On close examination, numerous aspects of the actions of the Polish telecommunications administration can be assessed critically. Taking the liberalisation of the fixed networks as an example, the old Ministry of Communication behaved passively and unprofessionally. The expectations placed on the URTiP as regulatory agency did not all prove to be well-founded. It is true that the agency has started working and cooperates with the anti monopoly office, but problems remain. The Ministry of Infrastructure has not enough resources at its disposal to work out the requisite decrees for implementation of the telecommunications laws. The URTiP sometimes is criticised as ineffective. TPSA can delay negotiations about interconnections, and the URTiP does not have the power to enforce the implementation of its decisions. It often takes a long time to come to a decision which is then frequently declared invalid in court due to formal mistakes (Rożyński 2003). The general complaint is that because of its shortage of qualified personnel and its insufficient power, the URTiP cannot do its regulative work in an efficient and flexible way.

As illustrated in this study, clear formal mechanisms are the prerequisite for a cooperation of URTiP and the other "mainplayers" in telecommunications administration (ministry, anti-monopoly office and Council for Radio and TV). The authority to release generally valid decrees, especially regulations, should be granted to the URTiP. Clearly defined areas of responsibility and unequivocal agreements are necessary to avoid cases in which as a result of doubts concerning responsibilities, none of the two agencies takes action. At present, it is still only a subject of discussion whether there will be a merging or a reallocation of responsibilities between the regulatory agency and the KRRiT.

Currently, it cannot be said that the URTiP holds the position of "core decision maker" (Böllhoff 2002) within the Polish regulatory regime. One has to wait and see whether the Polish regulatory agency will be able to establish itself as an effective regulatory authority in the future, and whether it will succeed in strengthening its position against other institutions.

Abbreviations

ABW	Agencja Bezpieczeństwa Wewnętrznego (Internal Security Agency)
AWS	Akcja Wyborcza „Solidarność“ (Solidarity Electoral Action)
CEEC	Central Eastern European Countries
EC	European Community
ECJ	European Court of Justice
EEC	European Economic Community
EU	European Union
GDP	Gross Domestic Product
GDR	Global Depository Receipts
IbnGR	Instytut Badań nad Gospodarką Rynkową (Institute for Market EconomyResearch)
IRA	Independent Regulatory Agency
ISDN	Integrated Services Digital Network
KBN	Komitet Badań Naukowych (Comittee of Scientific Research)
KLD	Kongres Liberalno-Demokratyczny (Liberal Democratic Congress)
KRRiT	Krajowa Rada Radiofonii i Telewizji (National Council for Radio and Television)
NIK	Najwyższa Izba Kontroli (Supreme Chamber of Control)
NOM	Niezależny Operator Międzystrefowy (Independent Operator for Long-Distance Calls)
NRA	National Regulatory Agency
OECD	Organization for Economic Co-operation and Development
OFCOM	Office of Communications
OJ	Official Journal of the European Union
ONP	Open Network Provision
PAR	Państwowa Agencja Radiowa (State Radio Agency)
PC	Porozumienie Centrum (Alliance of the Centre)
PChD	Partia Chrześcijańskich Demokratów (Christian Democratic Party)
PIR	Państwowa Inspekcja Radiowa (State Radio Inspection)
PiS	Prawo i Sprawiedliwość (Law and Justice)
PITiP	Państwowa Inspekcja Telekomunikacji i Poczty (State Inspection of Telecommunication and Post)
PLN	Polish Złoty
PPG	Polski Progrom Gospodarczy (Polish Economic Programme)
PPP	Purchase Power Parities
PPTT	Polska Poczta, Telegraf i Telefon (Polish Post, Telegraph and Telephone)
PSL	Polskie Stronnictwo Ludowe (Polish People's Party)
PSL „S”	Polskie Stronnictwo Ludowe „Solidarność” (Polish People's Party „Solidarity”)
PL	Porozumienie Ludowe (Rural Alliance)
PTC	Polska Telefonia Cyfrowa Sp. z o.o. (Polish Digital Telephony Ltd.)
PTK Centertel	Polska Telefonia Komórkowa Centertel Sp. z o.o. (Polish Telephony Centertel Ltd.)
RIO	Reference Interconnection Offer
ROP	Ruch Odbudowy Polski (Movement for the Reconstruction of Poland)
SChL	Stronnictwo Chrześciansko-Ludowe (Christian People's Party)
SD	Stronnictwo Demokratyczne (Democratic Party)
SKL	Stronnictwo Konserwatywno-Ludowe (Conservative People's Party)
SLD	Sojusz Lewicy Demokratycznej (Democratic Left Alliance)
SMP	Significant Market Power
TPSA	Telekomunikacja Polska Spółka Akcyjna (Polish Telecommunications)
UD	Unia Demokratyczna (Democratic Union)
UKIE	Urząd Komitetu Integracji Europejskiej (Office of the Committee for European Integration)
UP	Unia Pracy (Labour Union)
UOKiK	Urząd Ochrony Konkurencji i Konsumentów (Office for Competition and Consumer Protection)
URE	Urząd Regulacji Energetyki (Office for Energy Regulation)
URT	Urząd Regulacji Telekomunikacji (Office of Telecommunications Regulation)
URTiP	Urzad Regulacji Telekomunikacji i Poczty (Office of Telecommunications and Post Regulation)
USP	Universal Service Provision

UW	Unia Wolnosci (Freedom Union)
WTO	World Trade Organization
ZChN	Zjednoczenie Chrześcijansko-Narodowe (Christian National Union)
ZSL	Zjednoczone Stronnictwo Ludowe (United People's Party)

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Commission Directive 90/388/EEC of 28 June 1990 on competition in the markets for telecommunications services OJ L192/10, 27.04.90)

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