Optimal mix between managerism and the legal-administrative regulatory system

– The Finnish case for the reform of regulatory systems

Markku Temmes

1. INTRODUCTION

Historically, the modern order of the society has been built on the ideal of the law state in most of the European countries. Law was the first tool to to be developed in order to protect citizen's rights against despotism of the monarchy. The development of the law state also has been the basis of the development of free market economy. The historical ideal of the bureaucracy is connected with the ideal of the law state in creating order to the society for independent and effective bureaucracy could guarantee the rules of the game in the civil society and in the economy.

The recent administrative reforms in most of the European societies have not changed the basic roles of the law state and the bureaucracy. On the contrary, the demands for the development of better and better citizenship and relationships between the state, citizens and economy have increased. In that framework the managerial reforms which have changed the relationships between the authorities and the citizens have also impacts on the economic, social and legal systems. The balance between these categories can, however, be changed by reforms which can have heavy impacts on all of these systems.

The main dichotomy seems to be between the managerial and legal impacts of the recent reforms which consist of market-type mechanisms, business-type management and the corporation of the former state agencies. The key themes of this article handle the above mentioned dichotomy which includes the following sub-themes:

- A counteractive relationship between the traditional legal system and the New Public Management (NPM) (Pollit, 1992), this has created increasing needs to develope the administrative law to meet the new managerial challengies; otherwise managerialism must withdraw from solutions which cannot be adapted to the valid administrative legislation.
- The balance between NPM ja legalism reflecting divergencies between Anglo-Saxon and Continental administative cultures. As an administrative cultural phenomenon legalism has understood to consist of the norms and administrative rules directing the roles and authority of the administrative units and the processes by which they make they decisions. NPM is a synthesis of the targets and tools of the administrative reform policy created in the Anglo-Saxon countries since the beginging of the 1980's.
- The important view to the dichotomy between NPM and legalism which is provoked by the institunalization of the traditional Finnish administration and administrative culture. Legalism can lean on the institutionalization of the administrative structures and decision making processes in the Finnish administrative machinery. NPM reform policy built on managerism, market-type mechanisms and client orientation means a great challenge to old institutions of the Finnish administration.

It is a difficult task to a researcher to find solutions for this kinds of problems which are abstract and can be solved only in good co-operation between the administrative lawyers and the public management experts. But good questions should always be asked and this will be the main purpose of this article.

2. THE LEGAL TRADITION OF THE FINNISH ADMINISTRATION

In the Finnish state administration the national regulatory system has always been understood in the first place as a tool of legal controlling. As a nation, Finland has a strong Nordic (from the Swedish and German-French heritage) basis which has given us a lasting Rechtstaat tradition even long before the independence in 1917 (Klami, 1981). Until the latest years the legal regula-

tory doctrine has dominated the Finnish administrative reforms. Political or public management views have been underestimated.

From this legal dominance in the Finnish traditional regulatory doctrine follows several impacts on our traditional administrative culture:

- a clear and strong »jurist monopoly» especially at the highest level of the civil service in the ministries and central agencies (Finland has a Swedish-type two- level central administration), where administrative lawyers have the greatest share of important positions.
- a bureaucratic and inflexible administrative culture,
- a weak role of policy planning and evaluation at ministerial level, and
- numerous problems in management and leadership throughout the administrative machinery.

The main idea of this article as mentioned above is to seek the impacts of the new NPM (New Public Management) reforms on the traditional Finnish regulatory doctrine. Because of the conflicting views of the old and new regulatory doctrines the recent reforms in our administration (see section 2.1) have created a new interesting situation concerning especially the doctrine of »good administration».

The NPM reforms and managerism behind them have been in Finland criticised from a democracy perspective, but they have also been critised explicitely on legal and administrative cultural perspectives. A wide and intensive reform wave built on the targets of seeking more effectiviness and flexibilty to the administrative procedures and decision making systems has also created tensions between the reformers and the traditional administrators.

In the Finnish case, the traditional administrators have been, as above mentioned, mainly lawyers. In spite of strong political support to the managerial reforms this tension has led into open and sometimes heated public discussions between the reformers and the administrative lawyers opposing the managerial reforms by legal argumentation. The expressions of opinion carrying the most weight have been those of the Chancelor of Justice and of the Parlamentiary Ombudsman which are two ombudsmen in the Finnish legal system specialized in legal protection.

In Finland we have a strong Nordic ombudsman tradition in which the ombudsmen are also generally and in principle controlling and protecting the Finnish Rechtstaat model. Especially the Chancelor of Justice has quite good chances to influence the principles on the development of good administration and regulatory doctrine by giving legal directions to the Council of State. Both of our legal ombudsmen have recently been quite active in this public doctrinal discussion concerning the managerial reforms. These conflicts seem to be more than specific legal problems due to the new regulatory systems. There are marks of wider power struggle between the professional groups and the different administrative cultures.

The examples of these conflicts (see section 3.2) reveal about the symptoms from deeper conlicts between regulatory traditions. The attempts to solve these problems seems to have followed the old-fashioned incremental administrative tradition which is typical to the legal view. The other potential way could be the handling of these problems as a part of a wider wholeness and more at a level of principle, and seeking of optimal mix between various traditions.

The Finnish legal tradition originates as mentioned above from our Nordic and Continental models, belonging to the French-German or continental law tradition family. It is typical of this tradition that there is wide-ranging written and detailed codification of the norms concerning all areas of social life and the regulatory systems which have been founded on the strong national state. The centralized state and the strong centralized administrative machinery have many connections in this model.

The Nordic legal tradition has however one peculiarity which separates it from the typical Continental models. In the Nordic countries most national regulatory norms are divided between the state and the municipalities, which have broad constitutional autonomy (Nousiainen, 1971, ss. 312–344). This may be the most implicit difference to most of Continental European countries.

The Finnish constitution establishes the legality of the state and municipal administration. The administration is obliged to work under the principle of administrative legality. There are also several ombudsmen controlling the legality of the administrative decisions and acitivities. The Chancellor of Justice works in the Cabinet and controls its legality. The Parliamentary Ombudsman is located in the parliament from where she or he can also supervise the maintenance of the laws in the functioning of the courts and other public authorities. We can generally claim that

the traditional legal basis of the Finnish administration has become very strong (Moden, 1994).

In practice the strong legal system means among other things a plethora of norms. All areas of social life have been controlled and supervised by a wide selection of norms at different levels. There are many problems with the national regulatory system resulting from this deluge of norms in societies like Finland which built its legal tradition on a centralized regulatory system. Often these problems have emerged only between the public and private sector and only in the external regulatory systems. The influence of the legal tradition is also significant both in the internal regulatory systems and in the administrative culture.

The recruitment of government personnel follows the specific conditions for the appointment of candidates (so called open recruiting system which not includes any features carrier system typical for instance to the French or British top civil service). Normally there is a demand for the appropriate university degree and administrative experience for those candidates who want to be senior officials in the state administration (Moden, 1994, Metsäpelto, 1994), but in many cases a law degree is required for these posts. One reason to describe the Finnish administrative culture as a jurist monopoly is the number of the lawyers holding most the important posts in our administrative machinery. Their proportion among the leading civil servants in the state administration is still nearly 50 percent (Ylikangas, 1991).

3. THE FINNISH CASE FOR THE REFORM OF REGULATORY SYSTEMS

3.1 The Finnish recent regulatory reforms

Reforms in the managerial regulatory system were has not implemented prior to the modernization reforms which started in Finland in the 1970's. The first attempts of this kind were the management by objectives reforms in some agencies. Historically, both political and managerial control are very much newcomers to our national regulatory system (Temmes and Salminen, 1994).

All these three objects of the regulatory systems have their own characteristics. Legal control laid the main foundation of the hierarchical organization of the administrative machinery, so that both the legal control and the bureaucratic organization model of public administration supplement each other. Political control expresses the political will derived from citizens and parties. It is external to the inner life of the administration. In our case it take a long time to create a proper political controlling to the administrative machinery.

In the beginning of 1990's the managerial influence tries to find a niche in the administrative structure machinery, but has difficulty in finding its own place between the legal and political influences. Its nature is mainly internal. It competes with legal influence but needs the approval of politicians.

The triangular drama between legal, political and managerial control is a part of the ordinary life of the administration. This drama could be easy to forget in its internal aspect, but it has great impact at the level of national regulatory politics. Countries like Finland with strong legal tradition this triangel drama means easily the dominance of legal aspects. In the common law countries like Great Britain and United States political and managerial traditions can be stronger. The NPM-type modernization programmes of recent years in most western countries including Finland has meant an open conflict between these three views of the control of public activities.

In Finland politicians found difficulty in exerting legitimate influence in our national regulatory system in the early years of indepence. The old tradition of official and civil service power was so strong because of the traditions inherited from the period before independence. There is now a much better balance between legal or legal-administrative and political direction. The new situation in which the challenger, managerial control, has come to seek a position is alien to both legal and political control. However it seems to me that the politicians have more in common with new generation of public managers than has often been the case, as appears from the scholars of the administrative and political sciences.

The politicians see also in Finland the managerial approach to give more effectivness and flexibility to the administration. In the political debate for instance in United States they emphasize in this context the entrepreneurial management pradigma (Moe and Gilmour, 1995). The entrepreneurial management has not been so central in Finnis debate. In U.S. debate the connections between the private management doctrine and the public management reforms have been near. The NPM reforms in Finland have also

make these views nearer to each others but our reforms have been more modified to the direction of public and administrative needs (Pollitt etc., 1917, p. 5–7). We have tried to follow the OECD PUMA reform doctrines which have been more careful and maybe not so eager to introduce explicitely business management idea as models to the Finnish public management.

The growing actual conflict between the managerial regulatory tradition and the traditional legal-administrative regulatory system has arisen because the first is a ruling and dominant regulatory doctrine and the second is a challenger. The conflict between the political control and the other two systems is more than a battle for power in the administration, it is a battle between internal and external powers.

The legal-administrative regulatory doctrine was built in Finland on the principles of the bureaucratic organizational model which has dominated the institutionalization of the Finnish administrative machinery. It is used as to manage subordination between upper and lower organization and civil service levels of the hierarchy. Managerial doctrine is more flexible because it is more interested in the results of the activities than the bureaucratic power structure itself.

The main impact of the new managerial doctrine in the Finnish recent administrative reforms have been based on its push for decentralization and differentiation in public administration. The managerial doctrine is flexible because it favours service-oriented management and supports development towards more a specialized management doctrine, for example in service delivery, in knowledge-intensive organisational units, etc. The development of the managerial doctrine means at the same time decentralizing changes in the organisational and managerial structures and in the objectives of the management activities.

The Finnish recent reform wave (these NPM-type reforms have been implemented in years 1987–1995) includes three main reforms and several reforms supporting these main reforms. The main reforms are:

- the new public enterprise and state company model for former state agencies,
- the management by result reform as a new economic steering system in the state administration,
- the state subsidate system reform inwhich the relationship between the state and the municiplaities have been built on result steering and on frameworks of expencies (Temmes, 1994, p. 51–55).

These main reforms have already changed the internal state regulatory system more managerial. The more autonomous agencies have now more room for active management in their sectors. The controlling by the ministries has also developed more flexible and result oriented. There have been also some supporting law reforms. For instance the new budget law includes in general level articles on framework budgeting and the result management agreements between the ministries and the agencies but many new situations and relationships followed by the managerial reforms are still outside the appropriate legislation.

The joint impact of these changes may be more fundamental than their separate influence on the administrative culture of public administration. The question concerns the basic principles of public administration. In US debate Moe and Gilmour speak of the management crisis which is diagnosed differently by the partisans of the public law and entrepreneurial paradigm (Moe and Gilmour, 1995, p. 138–141). In the Finnish debate this tension has not untill now been so clear but the basic problems are same.

The significance of this dichtomy will increase as managerial reforms penetrate the core of the public administration. When managerism reached the public corporations and state-owned enterprises in Finland this conflict was weak and the new managerial doctrine was approved easily in most cases (Kiviniemi etc., 1994). Opposition at the heart of the public administration (the so-called budget state) has been more entrenched for many reasons (Temmes and Kiviniemi, 1995).

There are several reasons for this hardening opposition. First the managerial doctrine has been felt to be strange. Many see it as an imitation of business management which they think unsuitable for public organisations (Metcalfe, 1993). There are also real conflicts of interest between professional groups in the administration. The managerial doctrine has little by little created also in Finland a new cadre of public managers whose view of the objectives and tasks of public management clearly differs from the traditional legalistic thinking. The future of this new cadre of modern public managers depends on how fast and exhaustive transfer of power from the traditional legal-administrative civil servants to these modern managers can be. In Finland this will mean diminishing the power of administra-

tive lawyers and increasing the power of the new public managers.

The theoretical backround to this managerial invasion is mostly as mentioned above the NPM (new public management theory) as a joint codification of the reform trends of the last decade (Pollit, 1992 and Lane, 1993). The invasion of the new managers is not the basic phenomenon but a result of much wider NPM trends. If the conflict between the new public managers and more traditional administrators leads however to the triumph of the traditionalists the consistency of the NPM reform policy will be in danger. One basic feature of the managerial doctrine is its ability to create self-guiding development in both structures and operative functions.

3.2 Some Finnish examples of conflict between regulatory traditions

In the following lines I will try to give some Finnish examples of regulatory conflicts which have risen to the professinal debate during last two years. The reform policy itself has not affected these conflicts. They are much more effects of the conflicting regulatory traditions. The reformers have made probably mistakes in underestimating the legal view to the reforms and the oppositing attitudes of administrive lawyers towards managerism.

The German researcher Frieder Naschold has recently evaluated the modernisation processes in the public sector in Finland. He has analysed the comparative Scandinavian experiences of reform policies in recent decades. In his study he summarised Finland as a late-comer to public sector modernisation and as a country with a precarious compromise equilibrium between old and new management systems. He saw Finland as seeking a new development momentum. He sees two alternatives. Given a new momentum, the development of management by results will be pushed ahead and the modernisation processes will continue. The alternative is the danger of sliding back to the old system of directive management or perhaps a centrifugal fragmentation of the state apparatus (Naschold, 1995).

Naschold's evaluation and reasoning are interesting, although in the other recent evaluation studies the search for new momentum is not seen in the same dramatic way. In an interview study of senior Finnish civil servants they seemed to think that the decisive step to the managerial steering culture has already taken in Finnish public administration (Temmes and Kiviniemi, 1995). In spite of these different study results it seems clear that the Finnish administration is still seeking an equilibrium between various regulatory doctrines.

In these evaluation studies some cases in which the conflicting regulatory doctrines are demonstrated have come up. These cases will show that Naschold's view that Finland is still seeking a breakthrough to the managerial tradition holds to some degree. I personally however agree with the senior civil servants in this interview study that the breakthrough has been achieved but that the old legal-administrative tradition is still alive and there is an opposition which must be taken seriously.

The challengeability of the ministry-level civil servants in the directing boards of the agencies

The most in Finland well-known recent event of this kind is the problem of the challengeability of civil servants representing the ministry on the governing boards of the agengies and state enterprises subordinated to the ministry (the problem of the cahallengebility means in this connection a legal obstacle to handle matters in which the neutrality of civil servants is threatened). One main idea the Finnish management by result reform has been to create a result-oriented steering relationship between the ministries and the agencies. That has been the main reason to reorganized the traditional collegial boards which have consisted of the leading civil servants of the own agency to the managerial boards consisting of the external members. From a managerial viewpoint the representation of appropriate ministry has been understood to be a natural solution.

The Parlamentiary Ombudsman and the Chancellor of Justice have however claimed that the leading civil servants of the ministries are not allowed to serve as the chairmen or members on the governing boards of the subordinate agencies and state enterprises because of the challengeability problem (Eduskunnan oikeusasiamiehen kertomus 8.11.1993).

NPM-type reforms have meant more autonomy to the state agencies and state enterprises. The new act on state enterprises of 1988 which covers the post and tele communications and railways and about twenty other former state agencies particularily has increased the autonomy of these organizations. Some of these state enterprises have since been reorganized into state-owned joint stock companies as a second

phase of this reform. At the same time the traditional collegial boards of these organization have been replaced by modern governing boards, on which there are outside persons representing the interests of the state and appropriate knowledge (Seppovaara ja Hänninen, 1994).

This conflict, in which the senior civil servants in the ministries took a very clear and open stand for their membership of the governing boards, is legally unclear, but it is also managerially important. They regarded it a absolutely necessary for the ministries to direct and control the decision-making of the agencies and the state enterprises carefully. They did not understand why they could not do their managerial job because of the challengeability problem which they regarded artificial. They did not approve of the collective challengeability doctrine which the experts in administrative law in the ministry of justice cited as a main principle in the relationships between the ministries and their subordinate organizational units. They see the state as a whole legal subject inwhich there are no competing legal relationships.

This conflict is a question of serious principle from the standpoint of managerism. In the modern managerial system the ministry is a strategic unit which is responsible for the main lines of the activities around the ministerial branches. It is necessary to follow the decision-making in subordinate organization units at a strategic level. Otherwise the older tradition in which the most important decisions were made twice, at both agency and ministerial levels, can come back (Syrjänen, 1995).

NPM-type reform policies including Next Step autonomy (Metcalfe and Richards, 1990) for the agencies cannot in principle form a compromise in this question, but some kind of compromise must be reached. Some ministries have already reorganized their representation on the governing boards for this pressure. They have replaced the permanent secretaries and department chiefs by the second level civil servants wich are not working in those organizational units of the ministry responsible for the apropriate substance areas. It seems to be a very poor compromise because these civil servants are not neccessary the best ones to present the managerial interests and apropriate knowledge of the ministries.

The political Secretaries of State

The question of the political Secretaries of State is mainly interesting in the context of the relationship between politicians and civil servants is also a part of discussion around the politicization of the civil servance. In practice however it has a great impact also on the dichtomy between legal-administrative and managerial doctrines.

The Finnish leading civil servants has traditionally been formally politically neutral. Only the Secretary of State in Prime Ministers Office will change with the Government. In fact most of the top civil servants have connections to the political parties.

During last ten years there have been several proposals and political attempts to create into our ministries a system of the political Secretaries of State. These attempts have however not succeeded because of the resistance of the senior civil servants. If this reform could be implement it will change the balance between political and legal regulatory doctrines and probably open doors also for increasing mangerialism in the ministries.

The main argument for the new system of political Secretaries of State has been the increasing need for better political and managerial guidance in the state administration. Finland's recent membership in The EU has given extra argumentation for the new system because of the increasing timetable problems of the minister's. The main reasons for reluctance on the civil servant's part have been basically legal-administrative although there are also reasons based on the self-interest of the leading civil servants.

The case of the political Secretaries of State is thus more complicated. The main problem is the balance between the various regulatory doctrines and their objectives. This problem is a much wider one if we take into consideration the whole field of civil service law, the position of the civil servant, bureaucratic ethics, etc. (Lundquist, 1988).

In practice there are many other ingrown obstacles in the Finnish civil service law which are problems on the way towards managerism such as inflexible pay systems, underveloped incentive systems, over-protection of civil servants, etc., which can prevent managerial development in the agencies.

The result management agreements

One quite specific example of the conflict between the legal-administrative doctrine and the new managerial one is the legal problems surrounding the result management agreements made by both ministries and the agencies. The idea of these agreements is very much same as

the framework document in the British Nex Step agencies. The model to these agreements has been taken from Great Britain and Denmark. The administrative lawyers in Finland have interpreted these agreements as informal announcements without legal force. There are however plans to develop budget law to incorporate binding result management agreements.

Again those who are interested in developing the state planning systems, the strategic role of the ministeries and the management of state machinery prefer these agreements to impose stricter legal control. On the other hand the administrative lawyers are mostly against these reforms. One backround reason to these problems is the differencies between the Anglo-Saxon and Continental legal traditions. In Finland the result management agreements are formally a part of the legal regulatory system, in UK as a common law country they are mainly a part of the new political and administrative tradition.

The role of EU regulation

A new conflict between the regulatory doctrines has been provoked by Finnish membership of the EU. Supranational legal control will perhaps be a serious threat to the managerial regulatory invasion because of the increasing EU legislative regulation. There seems to be some danger of the return of the »jurist monopoly» and a new centralizing wave in the administrative machinery (Paul etc., 1995). On the other hand managerialistic trends could be beneficial to the national interest where the country needs better strategies and more effective policy implementation.

Some concluding remarks

More generally these conflitc show that the doctrinal discussion about future regulatory doctrine seems to be a one mainly between the managerialists. Some leading lawyers in the state service, the Parliamentary Ombudsman among them, seem still to hope for a renaissance of the familiar legal-administrative state. In some Finnish evaluation studies a comeback in the traditional legalist state and reconsideration of the managerial reforms for legal and administrative reasons has been expressed (Temmes and Kiviniemi, 1995).

Their main claim has been that these reforms have been poorly planned because the precondition of the Finnish legal system has been overlooked in these reform processes. It seems to be very difficult for the supporters of this view to see that because of the managerial reforms already implemented and their underlying political impetus the legal and administrative systems must be adjusted to these new regulatory doctrines.

It seems to me that our administrative lawyers still consider our legalist state so weak and underdeveloped that it cannot bear the managerial changes in the regulatory systems. To my mind this conclusion is odd. The strong basis of the Nordic legalist state guarantees that the balance between its preconditions and managerism cannot be a threat to it. Technically the easiest and perhaps most easily approved solution for these problems for the supporters of the legal-administrative regulatory doctrine may be establishing clear legal norms for such matters as the representation of the ministries on the governing boards in subordinate agencies.

4. SOME RESULTS OF THE EVALUATION REPORTS ON THE REGULATORY REFORMS

The evaluation program concerning the recent administrative reforms (years 1987–1995) in the Finnish administrative machinery is going on. Thus the main part of the evaluation results to make further conclusions are not yet available. The summary report will be at the begining of 1997. We already have some preliminary results and subreports of some spesific questions for instance on impacts of state enterprise reform and some surveys concerning the attitudes of the senior civil servants and key politicians. All this material tells about remarkable change in our regulatory doctrine towards clearly more managerial trend.

Strong political commitment to reforming public administration in Finland was first expressed in the programmes of the previous two governments. These coalition governments under prime ministers Holkeri and Aho stated clearly that public sector management was one of their priorities. These governments set up the ministerial committee for public management reforms (Kekkonen, 1994).

In Finland, most social services intended for the individual citizen, as well as the education system and health care, are the responsibility of the local authorities, the municipalities. They have

considerable self-management powers under the Finnish constitution. The reforms giving seem to have given the municipalities more room for manoeuvre and greater accountability. These reforms also have marked a move away from a heavily regulated system of ear-marked appropriations to a more flexible allocation of lump sums in the municipality subsidy system.

Other important initiatives aimed at decentralising the public administration have been reduction of the number of rules and regulations specified by laws and decrees. A lot of work has also been done in cutting the number of permits and licences in private life and business and between the state and the municipalities. These reforms have been partly succesful, but they have not solved the problem of heavy regulatory systems.

The new budgeting by results has however been the main internal regulatory reform in administration. It has meant a thoroughgoing budgetary reform based on the principles of frame budgeting and result management. Its impact on the regulatory doctrine has been crucial (Temmes and Kiviniemi, 1995).

An important step towards more result-oriented government has been taken with the state enterprise reform program launched at the end of the 1980s. This has established a new organizational model coming somewhere between a conventional administrative agency and state-owned joint stock companies (Pitkänen, 1994). These reforms have moved one third of the state personnel outside the budget sate.

All these reforms have supported decentralisation and a more flexible regulatory system. We can say that since the beginning of the 1980's Finland has established a consensus on the urgent need to decentralize and liberalize both external and internal administrative regulatory systems. Most of these reforms followed the managerial doctrine. The budgeting of results and framework budgeting as well as state enterprise reform are basically managerial (Temmes and Kiviniemi, 1995).

The only reform type following the legal-administrative doctrine in those years in Finland has been some reorganizing reforms in specific agencies and ministries. The decisions about these separate reorganizations was made in the ministerial committee without the approval of the ministries and agencies in question (Yksiportaiseen keskushallintoon, 1992).

In the evaluation studies of the usefulness and impact of these reforms, the great majority of the leading civil servants supported managerial decentralization reforms. They are also generally satisfied with main lines of the decentralization policies. However they oppose the individual up-down implemented decentralization reforms in which whole agencies have been abolished and their tasks moved to the ministries or to the municipalities. Senior civil servants criticized these reforms for their political motivation and poor planning and implementation (Temmes and Kiviniemi, 1995).

5. THE FINNISH REGULATORY POLICY IN A COMPARATIVE INTERNATIONAL CONTEXT

The Finnish regulatory reform policies, understood broadly, are a typical example of Anglo-Saxon NPM reform policies which means at the general level a long step towards businesslike operational doctrine, allowing greater autonomy for the service-providing bodies. It also increases the room for manoeuvre of the agencies and civil servants in charge, etc (Pollit, 1992). For that reason the Anglo-Saxon debate concerning the impacts of NPM and the U.S. entrepreneurial management paradigm are relevant to us.

The Finnish and Nordic legal basis and administrative tradition are not however Anglo-Saxon. They are much more of Continental origin. The main differencies to Anglo-Saxon tradition are:

- a different legal basis,
- a stronger state intervention both in exterenal and internal regulatory doctrines,
- a more centralized, hierarcial and homogenous administrative culture, and
- a stronger bureaucratic tradition.

These different traditions create problems in the implementation of the new regulatory politicies. They must be fitted to different surroundings. This means opposition from those supporting the former legal-administrative culture as well as the theoretical and pragmatic problems of fitting these two regulatory philosophies together. This change seems to happen step by step and be quite time-consuming.

After these assimilation processes Finland will take a long step from the legal-administrative culture which has dominated so far the managerial regulatory doctrine. But there is still such difficulty on the way to this kind of optimal mix, that we can not say certainly how these doctrines can actually accomodate each other.

Maybe Naschold is right when he claims that

there could still be suprises in this move towards a clearly more managerial administrative culture in Finland and in the other Nordic countries (Naschold, 1995, p. 24). Developments in supranational administration in the EU and in the entire EU administration and in the network administration of the member countries will be crucial. It seems to me that the Anglo-Saxon NPM theories and administrative thinking in the EU context are strongly opposed of supporters by the legal-administrative and purely bureaucratic regulatory doctrines. Germany has for instance traditionally been a supporter of this tradition, but it is also strong in France and the Mediterranean countries.

6. SEEKING THE OPTIMAL MIX BETWEEN LEGAL-ADMINISTRATIVE REGULATORY DOCTRINE AND MANAGERIAL CONTROL AND PLANNING SYSTEMS

There are two ways to look at the processes of change in administrative cultures. One way is a transmission analysis in which the main point is to analyse how and why this kind of process functions. The other is to see these processes as real balance-seeking processes and to concentrate on the phenomena themselves and their mutual relationships.

The theoretical basis of the first point of view is the theory of bureaucratic change. The keywords in this are debureaucratization, postbureaucratic organization models, modern theory of organising knowledge-intensive organizations, the networks and networking of the organizational unit in the state and also in the EU context. In this connection the regulatory theory is a part of the theory of debureaucratization. One aspect of these transmission processes is the imitation problem in which the peculiarities of public management shadow business management innovation (Metcalfe, 1993).

The other theoretical way to consider regulatory politics is to concentrate on the similarities and differences between the various regulatory policies and how to build a bridge between them. This view mainly considers private and public administration as planning, decision-making and implementation mechanisms. The broad theory block behind these phenomenon is also useful in evaluating the administrative reforms generally. In the area of regulatory reforms the most important theories come on the one hand from those theories concerning political and economic management in society generally and in organizations and on the other hand from legal control particularly.

In the former field the main points are the relationship between political and administrative control and what the role of economic management in the public administration is. In the latter field the main points are the basic obligatory guarantees which are necessary for the legal protection of society and the legal protection of the citizens. This point of view also includes some evaluation of the level of legal culture both in society and administration. In those societies with a strong legal tradition the need and opportunity of decreasing the legal emphasis and the bureaucratization flowing from them are easier to balance against the legal principles of state and the legal protection of the citizens. In the societies with less developed legal systems these opportunities are more restricted.

7. CONCLUSIONS

The Finnish experience of regulatory reforms can be summarized as follows:

1. Most of the changes which have in practice decentralized the national regulatory systems follow from the reforms attaining liberalization in the economic management systems. The most important reforms of that kind are managerial reforms in budgeting, planning and management systems. At that field the heavy reform vawe have been implemented in Finland since 1987.
2. The effects of the managerial regulatory doctrine are wider and more telling on the general administrative culture than were the planned objectives of the specific regulatory reforms.
3. The conflict with the new managerial regulatory doctrine has up to now been handled as individual legal cases without proper general discussion of the backgrounds and reasons for them. These cases are in fact symptoms of the more wide-ranging unsolved problems arising between the competing regulatory doctrines than the occasional legal cases would suggest.
4. Because of the crucial nature of these conflicts between regulatory doctrines they must be considered as part of the strategic solutions to these regulatory reforms.
5. The Anglo-Saxon managerial regulatory doctrine which has in recent years dominated

NPM-type reform policies in the developed OECD countries comes basically from a different legal, political and administrative culture to that we have in the Nordic countries. Our regulatory doctrine derives from Continental Europe, which means a strong centralized state and administration and the old tradition of legal-administrative culture and bureaucratic organizations.

6. The main problem in developing the regulatory systems in Nordic countries as well in Continental European countries will be to accomodate the benefits of both the managerial and legal-administrative regulatory systems. In practice this will firstly mean effective implementation of the managerial systems on both the strategic and operative levels. Secondly it means maintaining the essential structures of the modern legal state in the legal protection of its citizens and in the reliability of the administrative machinery through bureaucratic and hierarchical arrangements at least to some extent.
7. Theoretically and practically the main strategies of the modern internal regulatory reforms aim for a balance between these two main regulatory doctrines. The national legal tradition and the administrative culture are also factors which will influence this balancing process. Achieving a balance between political control and these internal regulatory systems is also an essential problem. This balance is however mainly external from the point of view of the administrative machinery.

BIBLIOGRAPHY

Kekkonen Sirpa: Developments in Finnish Public Management in the 90s, (in Public Administration in Finland, ed. Tore Moden), Helsinki 1994

Kiviniemi Markku, Oittinen Raija, Varhe Seppo, Niskanen Jouko ja Salminen Ari: Julkiset palvelut menevät markkinoille, kokemuksia ja näkemyksiä liikelaitostamisesta ja yhtiöittämisestä (Public services go on the market, Finnish experiences and views of new public enterprises and companies, available also in English, Helsinki 1995), Helsinki 1994

Klami Hannu Tapani: The Legalists: Finnish legal science in the period of autonomy 1809–1917, Helsinki 1981

Lane, J-E: The Public Sector, Concepts, Models and Approaches, New York 1993

Lundquist Lennart: Byråkratisk etik, Lund 1988

Metcalfe, Les: »Public Management From Imitation to Innovation», in Modern Governance, ed. Jan Kooiman, London 1993, p. 173–189

Metcalfe, Les and Richards, Sue: Improving Public Management, London 1990

Metsäpelto, Teuvo: Public Sector Personnel (in Public Administration in Finland, ed. Tore Moden), Helsinki 1994

Moe, Ronald C. and Gilmour, Robert S.: Rediscovering Principles of Public Administration: The Neglected Foundation of Public Law, Public Administration Review, March/April 1995, vol. 55, no. 2, p. 135–146

Naschold Frieder: The Modernization of the Public Sector in Europe: A Comparative Perspective on the Scandinavian Experience, Helsinki 1995

Nousiainen Jaakko, The Finnish Political System, Massachusett 1971

Oikeusasiamiehen kertomus 8.11.1995 (The review of the Parlamentiary Ombudsman 8.11.1995)

Paul Jan-Peter, Sihvola Ari, Temmes Markku ja Tiihonen Seppo: EU ja kansallisvaltio (EU and the National State), Helsinki 1995

Pollit, Christopher: Managerialism and the Public Services, Oxford 1992

Pollit, Christopher, Hanney, Stephen, Packwood, Tim, Rothwell, Sandra and Roberts, Simon: Main Report of the FINREF Project, Beunel University, Uxbridge, 1997

Pitkänen Eero: Public Economy in Finland, (in Public Administration in Finland, ed. Tore Moden), Helsinki, 1994

Seppovaara, Arto ja Hänninen, Risto: Johtokunta kollegion korvaana (The directing board as a substitute to the collegial boards), Tutkimaton uudistus?, Helsinki 1994

Syrjänen, Olavi: Ohjaus-ja valvontasuhteet keskushallinnon uudistuksessa (The direction and control relationships in the structural reforms of the central administration), Helsinki 1995

Temmes, Markku: Hallinto puntarissa (The adiministration as a target of evaluation), Helsinki 1994

Temmes Markku and Kiviniemi Markku: Muutoksen mahdollisuudet (The Challenges to the Change: Interview Research into leading Finnish Civil Servants), Helsinki 1995

Temmes Markku: Eurooppalaiset esikuvamme (Our European Models), Helsinki 1994b

Temmes Markku and Salminen Ari: The Evolution of Public Administration and Administrative Research in Finland: A Historical Overview, (in Public Administration in Finland, ed. Tore Moden), Helsinki 1994

Yksiportaiseen keskushallintoon (Towards the One-Step Central Administration), komiteamietintö 1992:28