

The Role of Independent Regulatory Agencies in Policy-Making: a Comparative Analysis of Six Decision-Making Processes in the Netherlands, Sweden and Switzerland

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Abstract

Independent regulatory agencies (RAs) are key political actors, which often cumulate several powers: rule-making, monitoring and control, adjudication, and sanctioning. Moreover, they often start domestic legislative procedures, participate in pre- and extra-parliamentary consultations, and are integrated into parliamentary debates. However, at present the role of agencies in national political decision-making processes has hardly been investigated. In this paper I will focus on six cases concerning the revision of a crucial law related to the range of competencies of a specific RA. I selected three small European countries (the Netherlands, Sweden, Switzerland), and two policy domains (banking and financial sector, competition). I will combine a structural with a reputational approach, drawing from documental and survey information about the participation and weight of each actor in the course of the decision-making process under investigation. Then, information on participating actors will be systematized and analysed using the “actor-process-event scheme” (Serdült and Hirschi 2004), an analytical technique to transform procedural information into structure data, in order to obtain results concerning the position and centrality of agencies in the course of each political decision-making process.

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1. Introduction: RAs and policy-making

The focus of this paper is on formally independent agencies that possess regulatory competencies. Not all agencies are regulatory agencies: some have only executive tasks; others are simple consultative organizations for policy makers. Not all agencies are formally independent: some are in subordinate relationships with public administration and ministries. Instead, independent RAs are defined as “governmental entities that possess and exercise some grant of specialized public authority, separate from that of other institutions, but (...) neither directly elected by the people, nor directly managed by elected officials” (Thatcher and Stone Sweet 2002). In addition, I am interested in the most powerful and institutionalized agencies, that is, those with a specific organizational model (chairperson or director – board or similar body – own secretariat), and that benefit from the broadest array of regulatory competencies, such as rule-making, monitoring and controlling, adjudication and sanctioning.

This institutional model has been extensively adopted in almost all regulatory fields in OECD countries, and where older agencies were already established, their competencies and their formal independence have been improved (Gilardi 2002). The diffusion of RAs derives from the fact that since the 1980s, the post-war settlements of “welfare capitalism” have been severely challenged, but in an unexpected way. While several studies emphasize how the spread of liberalization and privatization is restraining the room for political maneuver, and other scholars point out the increase of deregulation, the approach in terms of Regulatory State (Majone 1994), or, more broadly, Regulatory Capitalism (Levi-Faur 2005; Levi-Faur and Jordana 2005), underlines the expansion and intensification of more strict regulatory arrangements with competencies of execution principally delegated to non-majoritarian regulators (Coen and Thatcher 2005). In western Europe, the spread of RAs is due to a mix of factors concerning the mechanism of emulation among countries, top-down initiatives - above all European Union policies -, and functional pressures for improving the credibility of national policies and coping with political uncertainty (Gilardi 2005b).

We shall expect that agencies play an important role in the course of the political decision-making processes, which are related to the regulation of a specific sector. First, RAs should possess the technical expertise and dispose from many exclusive pieces of information that can be considered useful for developing the “best solution” to a given problem. Secondly, RAs are powerful organisations that cumulate several competencies of execution and benefit from a certain acquaintance with the target sector. Therefore, their agreement can be considered necessary by the political decision-makers in order to ensure the proper implementation of the new laws. Thirdly, they are formally independent in order to provide credibility to the political process; hence agencies can be included in order to legitimize a preformatted solution developed by the political actors in favor of a given reform.

However, the impact of independent RAs on policy making has rarely been studied, especially from a systematic comparative perspective. My research questions can be summarized as follows:

1. To what extent do formally independent regulatory agencies participate in the policy-making process?
2. Which phases of the process do they influence most heavily?

3. What is the explanation for the expected variations in the role of agencies in policy-making?

The rest of this paper is structured as follows. First, I will discuss how to compare different decision-making processes. Secondly, I will present four theoretical expectations that may explain variations in the role of agencies in policy making. After presenting the logic of the comparison and case selection, I will conceptualize and make operational my dependent variable – the centrality of RAs in the course of the decision-making processes – with a technique in terms of the Actor-Process-Event scheme. Results and conclusions follow.

2. Modelling and comparing the decision-making processes

Here, the term “decision-making process” illustrates the whole process of adopting/revising a new law (in the domain of the related RA), from the agenda setting to the policy implementation. In other terms, the policy cycle (Howlett and Ramesh 2003) can be divided into a number of events, which are not necessarily sequential (Jones 1977). In fact, according to the garbage can model (Olsen 2001), we can consider that, for example, the formulation of a solution does not always follow the emergence of a problem.

Starting from these premises, how can we compare different decision-making processes? A cross-sectoral and cross-countries comparison of political decision-making processes is considered feasible, even if it is neither common nor straightforward, because the existent models of decision-making are extremely heterogeneous (Peters 1998). Moreover, it has been noted that any notion defining an institution can hardly be applied as such to different cases, because its meaning is related to a specific context, where each institution is embedded and interdependent (Rose and Makenzie 1991). Finally, we should be aware of the risk of “conceptual stretching,” which Sartori derived from the inherent trade-off between the number of cases to which a concept can be applied and the precision of the categorization (Sartori 1970).

Nonetheless, we can try to deal with these shortcomings. First, we shall start from a number of decision-making processes which are structurally “as similar as possible” (across and within the countries), in order to distinguish the relevant variations due to the pertinent variables (Przeworski and Teune 1970). Similarly, in order to exclude any endogenous selection bias, we need to focus on some substantially comparable pieces of legislation. Third, we have to compare processes by dividing them into a number of events, as mentioned above, which can be considered as functional equivalents across cases. This means that, for comparative purposes, it is useful to categorize any event by the functions it performs (Collier and Mahon 1993). Finally, we have to compare our findings with the empirical literature in the field, in order to distinguish trivial from relevant explanatory factors.

In order to accommodate the first point, I decided to focus on a peculiar type of decision-making process, that is, those in small corporatist European states. Here, many shared characteristics among models of policy-making ensure a high level of comparability. First of all, Katzenstein (Katzenstein 1985) already remarked the constant cooperation between the government/administration and the representatives of economic and social interest groups in those countries, within the framework of a strongly institutionalized corporatist arena in many

crucial policy areas¹. As a consequence, the pre-parliamentary phase, which includes many political actors, such as the interest groups, the administration, the government and political parties, is traditionally considered as crucial, as it predefines to some extent the range of any possible decision taken by the more politicized parliamentary arena.

Moreover, these countries represent an extremely interesting case for studying the role of agencies because the policy-making is highly penetrated by external actors. We expect that RAs should influence especially (directly) the pre-parliamentary negotiations and (indirectly) the parliamentary arena. The following two points will be discussed in detail in the section on the methodology used, whereas the fourth will be addressed when discussing our results.

3. Hypotheses

The question of the role of agencies in policy-making will be addressed from the point of view of some crucial feature of RAs, which are discussed in the literature on regulatory capitalism and the origin and diffusion of non-majoritarian regulators (Levi-Faur 2005).

Hypothesis 1): The specificity of RAs. In European countries, many regulatory functions are delegated from elected politicians and ministries to highly specialized, formally independent regulatory agencies, according to the fiduciary principle (Majone 2001a). In addition to their statutory competences of rule-making, supervision and sanctioning, agencies are expected to initiate new legislative procedures, to offer their expertise to the decision-makers, and ensure implementation of the new rules, due to their unique acquaintance with the regulated sector. In practice, political responsibilities often overlap between regulatory agencies, ministries, legislative bodies, and courts (Christensen and Laegreid 2005). Therefore, we expect formally independent agencies to be integrated extensively in the political processes, more than extra-parliamentary commissions, where experts and interest groups participate mainly for consultative purposes, and more than ordinary agencies, which are subordinated to their principal, i.e. the ministerial level. This point is essential when examining whether formally independent RAs really function as specific political actors that might affect the political process.

- *RAs are expected to be extensively included in the course of the political decision-making processes in their area of competence.*

Hypothesis 2): The political-administrative culture. We focus on RAs that enjoy formal independence from elected officials, that is, those that have statutory prescriptions of separateness enshrined in their constitutions. However, not only formal rules (Egeberg 1999) but also informal norms (Peters 2001) are expected to affect the role of independent agencies in substantive policy-making. Indeed, the political-administrative and organizational culture must be taken into consideration because similar statutory prescriptions can mean different things in different institutional contexts (Christensen and Yesilkagit 2005). The perceptions of the role of regulatory agencies and their relations with the political decision-makers should be understood according to a specific institutional logic of appropriateness (March and Olsen 2004). In other

¹ Even if many developments, such as economic internationalization, may have challenged some features of this model, some studies emphasize the persistence of corporatist arrangements (Schmitter and Grote 1997).

words, we assume that political actors are encapsulated in the ethos, practices, and expectations of their institutions; therefore, they do what they consider to be appropriate for themselves in a specific type of situation. As a consequence, in order to inquire about the relations between informal rules and action, we can first of all distinguish between a vertically integrated system and a model where a strict separation between political decision-making and administrative implementation exist. In the former case, no limitation to the inclusion of RAs in the policy-making process exists. Conversely, we may expect that in the latter case equally formally independent agencies have fewer opportunities to influence the policy-making process because of a different logic of appropriateness, which characterizes the decision-making process as an exclusive competence of the ministerial departments. Secondly, we can distinguish between a (horizontal) specialized and professionalized civil service and a more decentralized and less professionalized administrative model. In the latter, because of the constant need for expertise and/or technocratic legitimacy, the decision-makers are expected to rely on agencies, which should therefore be intensively included in the course of the decision-making processes.

- a) *Formal prescriptions of independence being equal, in a vertically separated system RAs are expected to be less important in policy making than in a “monocratic” model.*
- b) *RAs are expected to be more important where the civil service is hardly specialized.*

Hypothesis 3): Expertise. Agencies are highly specialized bodies that possess a unique expertise capacity in the field, due to their usually vast resources, their technical competencies, and their regular interaction with the regulated sector. Delegating public authority to regulatory agencies is expected to improve the efficiency and quality of the political process (Majone 2001b). Therefore, we can expect that their role in policy-making should be far more important in a specific technical sector such as financial services than in generic areas of regulation, i.e. general regulation of competition. On the one hand, we might suppose that, in a narrow and depoliticized arena, delegation to RAs can be seen as the taken-for-granted technocratic tool for developing the “best” regulatory action by providing reliable pieces of information and advice to decision-makers. Conversely, in a more politicized context, RAs can be either not included or, from a more strategic-rationalist point of view, formally included in a process in order to legitimate the prior position of the political actors, which are in favour of a given reform, without being truly influencing the development of the new pieces of legislation. For instance, according to Fischer (Fischer 2005), RAs are sometimes likely to be used by the political actors in favour of a certain reform as a second chance in case of defeat during the first attempt in the course of the standard legislative procedure.

- *Highly specialized sector-specific RAs are expected to play a more important role in decision-making than general regulators.*

Hypothesis 4): De facto independence. De facto independence of RAs characterizes the effective independence of agencies during their day-to-day regulatory action. It is a crucial variable for the study of the consequences of “agencification” on the political system (Maggetti 2007). A high level of de facto independence from the political decision-makers should be related to the need for integrating agencies in the political process, in order to avoid any possible reorientation of the strategic aims of delegation and ensure the proper implementation of the new rules (Braun 2002). On the other hand, a low level of de facto independence from those who are regulated (i.e., the regulatees) is expected to reinforce the participation of agencies in the political decision-

making process, as the political decision-makers will perceive them as credible veto players (Tsebelis 2002): agencies are included, in order to overcome their potential veto power (for instance, by retaining crucial pieces of information).

- a) *High de facto independence from the political decision-makers should enhance the role of agencies in the political decisions-making process.*
- b) *Low de facto independence from the regulatees should enhance the role of agencies in the political decision-making process.*

4. Empirical analysis

4.1 Methodology and case selection

In order to examine the cross-sectoral and cross-national variations of the role of agencies in policy-making, I will adopt a comparative logic close to a “most similar system design” (Przeworski and Teune 1970) by comparing cases as similar as possible, those that differ only in those independent variables that should explain the variation of the dependent variable. According to Mahoney (Mahoney 2007), this method can be used to discuss potential sufficient causes. For example, a cause is not sufficient for an outcome if it is present in both cases where the outcome is present and cases where the outcome is absent. This allows us to execute a preliminary test of hypotheses with a model that should correspond to the current ontological assumptions about the causal structure of the social world (Hall 2003), as described in terms of complex (i.e. multiple and conjunctural) causation (Ragin 1987, 2000), with interaction effects among contextual variables (Liebersohn 1985, 1992). In this context, we will assume that different explanatory variables (or combinations of explanatory variables, e.g. INUS conditions)² could lead to the same outcome (e.g. “equifinality,” see (Bennett and Elman 2006)). In addition, the discussion of negative cases could be also useful for theory development (Mahoney and Goertz 2004). The aforementioned research design can be strengthened with a strategy in terms of “stepwise analysis” (Levi-Faur 2006), which puts the construction of the argument through a series of redundant comparisons involving an iterative comparative approach.

Starting with these premises, to test the hypotheses, we need a number of decision-making processes where a regulatory agency is expected to be included. Therefore, the rationale driving my case selection is as follows. Cases should be “as similar as possible” with respect to the relevant contextual variables. Hence, as anticipated in section 2, we choose a number of small corporatist countries with a similar ideal-type of decision-making process. I thus selected three countries, which fulfil these criteria (the Netherlands, Sweden and Switzerland).³ The three countries can be seen as regimes close to the parliamentary type, (but) characterized by relatively weak executives (Siaroff 2003). Moreover, according to the criteria of Lijphart (Lijphart 1984, 1999), we can consider that the political decision-making process in Sweden, in Switzerland and the Netherlands is, on the whole, consensual and corporatist-oriented. On the

² According to Braumoeller (Braumoeller 2003), who cites Mackie (1965), the term of INUS condition define a causal condition as “an insufficient but necessary part of a condition which is itself unnecessary but sufficient for the result”.

³ Obviously, there are some important differences not to be neglected, on the one hand on the varieties of corporatism (Falkner et al. 2004), on the other on the recent development of consensus democracies (Häusermann et al. 2004).

one hand, political decision-making in all the selected countries is traditionally open and includes administrative actors and representatives of organized interests. On the other, the three countries present the fundamental characteristics of a consensus democracy, where cooperation between political parties and groups is institutionalized, in order to achieve simultaneously a number of goals relating to economic and social policy (Armingeon 2002). Moreover, as required by **hypothesis 1**, the Netherlands, Sweden and Switzerland have a long tradition of extra-parliamentary commissions and expert committees.

The political-administrative culture – **hypothesis 2a and 2b** – can be made operational through the following distinction. The *Dutch* civil service is habitually presented as relatively depoliticized and shaped by a high level of formalism and legalism. It is comparatively small and fragmented. The recruitment is based on a position principle, which implies a high level of specialization and professionalism (Andeweg and Irwin 2005). While agencies normally enjoy a high level of formal autonomy, the system is described as “monocratic,” that is, the public administration is subordinated to ministers, which are political executives with strong decision powers within their portfolio (Christensen and Yesilkagit 2005). Nothing is then expected to preclude the participation of regulatory agencies in policy making. In *Sweden*, the public administration is centralized, professionalized, and coherent (Kriesi 1994). Nonetheless, the system is characterized by a principle of dual functioning, which implies a strict separation between policy formulation, which relies on ministries, and policy implementation. Agencies are seen as autonomous, even if informal linkages with politicians exist (Peters 2001). In this context, the term “politicization” has a strong negative connotation when it refers to the administrative sphere (Pierre 2004). Moreover, administrative agencies, for historical reasons, are still perceived as performing semi-judicial functions (Christensen and Yesilkagit 2005). According to an institutional logic of appropriateness, agencies are then expected to be excluded from the crucial phases of policy-making. The *Swiss* public administration is small, decentralized, and scarcely professionalized, frequently relying on extra-parliamentary commissions and quasi-state implementation agencies (Varone 2007). Even if many implementation competencies are delegated to the cantonal level, factually they often overlap with the central administration (Kriesi 1995). Moreover, the civil service, even if relatively depoliticized, is subordinated to the relevant departments and enjoys an important role in ordinary legislative processes (Ruffieux 1975). Because of the constant need for expertise and/or technocratic legitimacy, agencies should be intensively included in the course of the decision-making processes.

Next, the need for expertise is related to the degree of technicality (either factual or politically constructed) – and de-politicization – of a given issue. It can be assessed through the distinction between sector-specific and general regulators (Maggetti 2007). Therefore, I focus on two kinds of formal independent RAs, that is, banking and financial services commissions (a highly technical sector) and general competition authorities. This distinction will allow us to test **hypothesis 3**.

The aforementioned agencies must also possess a similar formal independence (see Table 1, from Gilardi (Gilardi 2002, 2005a)), whereas they should display a consistent variation concerning de facto independence from the political decision-makers and from the regulatees (see Table 2 (Maggetti 2007)). This latter condition is necessary in order to test **hypothesis 4a and 4b**.

--- Table 1 about here ---

--- Table 2 about here ---

At the end of the day, for each one of the six countries/sectors, I focus on an agency in a decision-making process, which refers to the development of a crucial piece of legislation in the range of competencies of the related RA in the years 2000-2006 in order to highlight its role in the policy-making process. Cases are summarized in the table below.

--- Table 3 about here ---

4.2 Conceptualizing the dependent variable

We focus on the role of RAs during the political decision-making processes under investigation. In order to obtain a single measure, I will combine a structural and a “reputational” approach, by asking the crucial actors the following questions: (1) Which actor participated in a given phase of a decision making process? (2) What was the weight of each actor? The derived synthetic measure, aggregating participation and influence, will be **the centrality of RAs** in the course of a given decision-making process. This measurement can be further interpreted thanks to more detailed information on the participation and influence during any phase of the process.

Concretely, the roles of the political actors in the course of each decision-making process will be systematized and compared with the Actor-Process-Event Scheme (APES) (Serdült and Hirschi 2004; Serdült et al. 2004), an analytical tool that allows transforming process information into structural data, in order to execute some simple operations of social networks analysis, such as the measurement of centrality.

The APES is a two-dimensional graph, which links the participating actors with the different stages of the political process under investigation. In the process axis, we need to select the crucial events that make up one or more stages of a policy cycle (Howlett and Ramesh 2003). Generally speaking, the definition of these events depends on the parameters of the political system and on the peculiar characteristic of the process under investigation. It is worth noting that, in the actor axis, we could distinguish whether an actor participates in an event or not, and put a value on the importance of his participation. The second step is the transformation of the APES into a policy network. The APES gives us information allowing us to create a data matrix containing data about event participation (two mode actor-event matrix). This is built by filling the cells with a zero (0), in case an actor did not participate in an event or with a value (e.g. 1), if an actor participated. As earlier stated, the value related to actors’ participation in a process can be weighted.

Then, we have to transform this matrix into an actor-actor one, with the adequate procedure in UCINET (Borgatti et al. 2002), to obtain the symmetric relations between all pairs of actors (excluding the diagonal, which is meaningless here). Following the suggestions of the authors (Serdült and Hirschi 2004; Serdült et al. 2004), the result should represent the policy network derived by process data. We then have a matrix that provides parsimonious, clear, and - last but not least - comparable data that we can analyze using the classical Social Network Analysis tools. In other words, we are able to compare the decision-making processes according to some network properties, such as measurements of centrality.

In this paper we will calculate and then compare Freeman's centrality degrees of participating actors, with the aim of discovering which ones are the most influential, by comparing the range of values as ordinal categories within each policy network. We assume that the most influential and central actors are also very prominent actors, crucially influencing the decision-making process.⁴

4.3 Making the dependent variable operational

The explanatory variables are derived from the aforementioned research design, whereas the dependent variable, which refers to the centrality of an agency in a policy network, will be made operational as follows.

We focus on every actor who took part in the decision making process, based on both theoretical literature and existing documentation about the specific cases: government, first chamber of the parliament, second chamber (if any), parliamentary committee of the first chamber, parliamentary committee of the second chamber (if any), public administration, RA, other agencies or courts, producers' associations, consumer associations, liberal professionals, academic experts, trade unions, supervised institutions, European Union, other actors (expert committees, companies, international organizations, et cetera).

The next step is the partition of the policy process into a series of crucial events, according to the policy cycle theory. We adopted a somewhat deductive line of attack, starting with the classical literature over each type of decision-making process: (Andeweg and Irwin 2005) for the Netherlands; (Kriesi 1994) for Sweden; (Kriesi 1995; Sciarini 2002; Sciarini et al. 2002) for Switzerland). Then the outline is based on archive documents concerning the decision-making process under investigation; finally, our reading of the story is improved by the information given by the actors themselves in a short series of electronic interviews. In conclusion, the functional sequence of events is as follows: 1) agenda-setting; 2) preliminary investigations; 3) working out the draft; 4) consultation; 5) draft modification; 6) decision; 7) monitoring/implementation; 8) sanctioning/evaluation.

Then, for each process, different categories of crucial actors will be interviewed by survey inquiry in order to gain knowledge about the participation and weight of each actor: agency officials, administrative/ministerial actors, and political/parliamentary actors. Non-participation in a given event is coded 0. According to the reputational data, participation is coded 1 when the actor is in a merely passive phase (e.g. consultations) and when the actor is considered as scarcely influential on the event (i.e. an average value of 1, 2 or 3 on the aggregated seven-point weight scale from our survey inquiry). Participation is coded 2 when the actor is considered as influential to a certain extent (4, 5) and it is coded 3 when the actor is considered to be strongly influential (6,7) with respect to the process. Individual answers will be aggregated first at the level of each category and then among categories. Concerning participation, I will take into account any actor even if only one interlocutor mentions him. Concerning weight, I will take the simple average (at the higher value). If a respondent does not mention an actor who is, however, mentioned by others, I consider that the former gives him the lowest weight. In case of a huge discrepancy among answers, I will come back to those cases and execute a deeper

⁴ The connection between actors' position and their power is acknowledged by several scholars interested in SNA (Diani 2003; Knoke 1990).

examination with semi-directed interviews.

4.4 Data collection

In the present inquiry, relevant information was collected starting from written and electronic documentation and a small number of electronic and telephone interviews with civil servants. In that way, I identified a number of crucial ministerial, administrative, political, and agency actors in the course of the investigated decision-making processes. I then sent a detailed questionnaire to all those actors, asking who participates in the aforementioned process and to what extent they influenced each phase of it (without any reference to my specific interest in the role of RAs). Please note that since questionnaires are precise, non-anonymous, accompanied by electronic interviews and prepared and confirmed with written documentation, the information can be considered very reliable.

4.5 Results and discussion

I employed the APES software (Serdült et al. 2005) to draw the Actor-Process-Event Schemes (Tables 4 to 9) and derive the corresponding data matrices. Freeman's centrality degrees of participating actors were then calculated using the appropriate procedure in UCINET (Borgatti et al. 2002).

--- Table 4 about here ---

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--- Table 6 about here ---

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--- Table 8 about here ---

--- Table 9 about here ---

We can compare the relative centrality of actors within each policy network. As a result, we obtain the following typology concerning the agency's role in the investigated decision-making process:

1. The agency is clearly the unique central actor - swibk
- swico
2. The agency is a central actor together with another actor (normally, the government) - netco
- swebk
- netbk
3. The agency is still important, but it is definitely not the central actor - sweco

When examining the effect of single variables, we note immediately that each agency holds an important position in all the investigated decision-making processes. Specifically, it appears from the APES that RAs are not only central in the implementation phase, but they are extensively included during all the decision-making processes, thus supporting **hypothesis 1**. For instance, the netco, the swibk and the swico are also highly influential in agenda setting and preliminary investigations. Next, the political-administrative culture matters, corroborating our **hypotheses 2a and 2b**. A dual and specialized administrative system seems to be related to the minor significance of agencies in policy making. In fact, the sweco is determinant only in the phases of monitoring/implementation and sanctioning. The swebk appears slightly more central, but, as we can observe from the APES, this is especially due to procedural reasons. Moreover, we note that other actors (such as an extra-parliamentary expert commission) enjoy a centrality degree similar to the agency. Conversely, agencies are the most central actors in Switzerland, where the civil service is vertically integrated and non-specialized. Concerning **hypothesis 3**, there is no data to support the idea that sector-specific regulators are more central than general ones. Indeed, both the swibk and the swico agencies are the most central regulators. Concerning **hypothesis 4a**, de facto independence from political decision-makers has no effect: both the more central agencies (swibk, swico) and the less central agency (sweco) enjoy a high level of de facto independence from them. On the other hand, the de facto independence from those who are regulated seems to play a role: RAs that are scarcely de facto independent from the regulatees are also central in the decision-making processes (swibk, swico and, to certain extent, netbk). This corroborates **hypothesis 4b**, that is, the idea that those regulators are seen as crucial actors, which should be integrated in the process in order to overcome their potential veto power, given that they are likely to retain some pieces of information, due to their close relationships with the regulated sector.

As we can easily see, neither the absence of a clear vertical separation (because the netbk and the netco, embedded in a model similar to that of the Swiss agencies, are less central), nor the distinction between sector-specific and general regulators (see above) are strictly sufficient for explaining the outcome of maximal centrality of agencies. Similarly, a low de facto independence from the regulatees cannot guarantee that an agency will be the unique central actor, as the netbk, which is also scarcely independent, is less central than Swiss agencies. The only condition that is present only in the first outcome is the relative weak professionalism of the civil service, which is a unique characteristic of the Swiss political system. Nevertheless, it is plausible that this variable has a joint effect with other conditions. The combination of variables that (in the small universe here represented) is sufficient for explaining the exclusive centrality of agencies in policy making are: non-professionalization of the civil service, a “monocratic” politico-administrative system, and agencies’ scarce de facto independence from the regulatees (that is, in the case of the swibk and the swico, compared to the sweco, where both conditions are absent). Probably this result can be interpreted as follows. Low de facto independence implies that the regulator is a credible veto player that political decision-makers have to include in the process due to a lack of expertise and/or legitimacy; in this context, it is possible to integrate the agency because of the absence of a clear separation between decision-making and implementation competencies.

However, the empirical validation of the causal relations identified above will imply a further step, that is, a qualitative and systematic study of sequences of causal mechanisms influencing the role of each participating actor in the course of the political processes, such as the “process tracing” analysis (George and Bennett 2005).

5. Conclusion

In many Western countries we observe an increasing phenomenon of delegating political power from democratic institutions to various non-representative bodies that are not democratically responsive to citizens. The most important and widely diffused type of such bodies corresponds to formally independent regulatory agencies (RAs). These agencies often cumulate several powers: rule-making, monitoring, adjudication and sanctioning. Nonetheless, their role in national policy-making has hardly been investigated. In this paper, I studied six decision-making processes in three corporatist European countries (the Netherlands, Sweden, Switzerland), and two policy domains (banking and the financial sector, competition), so as to highlight the role of RAs during the policy-making. I first combined a structural with a reputational approach, drawing from both documental and survey information about the participation and weight of each actor in the course of the decision-making process under investigation. Then, I systematized and analyzed data using the “actor-process-event scheme” (Serdült and Hirschi 2004), a tool allowing us to transform procedural information into a policy network in order to obtain results about Freeman’s degree of centrality of RAs in the course of the related process.

Results show two crucial empirical findings. First, RAs are very important in the course of each political decision-making process under scrutiny. They are not only crucial in the implementation phase, but they are actively participating in all the processes, especially in agenda-setting and preliminary discussions. Second, a combination of variables that is sufficient to explain the unique centrality of agencies in policy making is identified: a vertical-integrated administrative system, non-specialization of the civil service, and scarce de facto independence of the RA in charge from those who are regulated. This is the case of the Swiss Federal Banking Commission in the course of the revision of the Stock Exchanges Act of 2006, and the Swiss Competition Commission during the revision of the Act on Cartels of 2003.

From this piece of research we can derive three theoretical insights. First, regulatory agencies constitute a specific kind of political actor, possessing a number of policy-making functions distinct from those of an expert commission, organized interest representatives, and ordinary agencies subordinated to the ministerial level. Second, the administrative culture affects the role of agencies in policy making, beyond the statutory prescriptions. Third, endogenous informal factors, such as the relationship between an agency and the representatives of the regulated sector, can alter the centrality of agencies in the decision-making processes. However, further in-depth research is needed, especially concerning the causal mechanisms underlying the causal relations identified above.

References

- Andeweg, R. B., and Galen A. Irwin. 2005. *Governance and politics of the Netherlands*. 2nd ed. New York: Palgrave Macmillan.
- Armingeon, Klaus. 2002. "The effects of negotiation democracy: A comparative analysis." *European Journal of Political Research* 41 (1):81-105.
- Bennett, Andrew, and Colin Elman. 2006. "Qualitative Research: Recent Developments in Case Study Methods." *Annu. Rev. Polit. Sci.* 9:455-76.
- Ucinet for Windows: Software for Social Network Analysis. Analytic Technologies, Harvard.
- Braumoeller, Bear F. 2003. "Causal Complexity and the Study of Politics." *Political Analysis* 11 (3).
- Braun, Dietmar. 2002. "Debate: State Intervention and Delegation to Independent Regulatory Agencies." *Swiss Political Science Review* 8 (1):93-6.
- Christensen, Jørgen Grønnegaard, and Kutsal Yesilkagit. 2005. "Delegation and specialization in regulatory administration: A comparative analysis of Denmark, Sweden and The Netherlands." In *SCANCOR/SOG workshop on "Autonomization of the state: From integrated administrative models to single purpose organizations"*. Stanford University.
- Christensen, Tom, and Per Laegreid. 2005. "Agencification and Regulatory Reforms." In *SCANCOR/SOG workshop on "Autonomization of the state: From integrated administrative models to single purpose organizations"*. Stanford University.
- Coen, David, and Mark Thatcher. 2005. "The New Governance of Markets and Non-Majoritarian Regulators." *Governance: An International Journal of Policy, Administration, and Institutions* 18 (3):329-46.
- Collier, D., and J.E. Jr Mahon. 1993. "Conceptual "Stretching" Revisited: Adapting Categories in Comparative Analysis." *The American Political Science Review* 87 (4):845 - 55.
- Diani, Mario. 2003. "'Leaders' Or Brokers? Positions and Influence in Social Movement Networks." In *Social movements and networks : relational approaches to collective action*, ed. M. Diani and D. McAdam. Oxford ; New York: Oxford University Press.
- Egeberg, Morten. 1999. "The Impact of Bureaucratic Structure on Policy Making." *Public Administration* 77 (1):155-70.
- Falkner, G., O. Treib, and M. Hartlapp. 2004. "Europeanization of Social Partnership in Smaller European Democracies?" *European Journal of Industrial Relations* 10 (3).
- Fischer, A. 2005. "Unabhaengige Regulierungsinstanzen als parallele Institutionen-Die Auseinandersetzung um die Entbuendlungsverpflichtung auf der letzten Meile in der Schweizer Telekommunikationspolitik." *Swiss Political Science Review* 11 (4):169-202.
- George, A. L., and A. Bennett. 2005. *Case Studies And Theory Development In The Social Sciences*: Mit Pr.
- Gilardi, Fabrizio. 2002. "Policy Credibility and Delegation to Independent Regulatory Agencies: A Comparative Empirical Analysis." *Journal of European Public Policy* 9 (6):873-93.
- — —. 2005a. "The Formal Independence of Regulators: A Comparison of 17 Countries and 7 Sectors." *Swiss Political Science Review* 12.
- — —. 2005b. "The Institutional Foundations of Regulatory Capitalism: The Diffusion of Independent Regulatory Agencies in Western Europe." *Annals, AAPSS* 598:84-101.
- Hall, Peter A. 2003. "Aligning Ontology and Methodology in Comparative Research." In *Comparative Historical Analysis in the Social Science*, ed. J. Mahoney and D. Rueschmeyer. Cambridge: Cambridge University Press.
- Häusermann, Silja, André Mach, and Yannis Papadopoulos. 2004. "From Corporatism to Partisan Politics: Social Policy Making under Strain in Switzerland." *Swiss Political Science Review* 10 (2):33-59.
- Howlett, Michael, and M. Ramesh. 2003. *Studying public policy : policy cycles and policy subsystems*. Toronto ; New York: Oxford University Press.
- Jones, Charles O. 1977. *An introduction to the study of public policy*. 2d ed. North Scituate, Mass.: Duxbury Press.

- Katzenstein, Peter J. 1985. *Small states in world markets : industrial policy in Europe*. Ithaca, N.Y.: Cornell University Press.
- Knoke, David. 1990. *Political networks : the structural perspective*. Cambridge [England] ; New York: Cambridge University Press.
- Kriesi, Hanspeter. 1994. *Les Démocraties occidentales. Une approche comparée*. Paris: Economica.
 — — —. 1995. *Le système politique suisse*. Paris: Economica.
- Levi-Faur, D. 2006. "Varieties of Regulatory Capitalism: Getting the Most Out of the Comparative Method." *Governance* 19:367.
- Levi-Faur, David. 2005. "The Global Diffusion of Regulatory Capitalism." *Annals, AAPSS* 598:12-32.
- Levi-Faur, David, and Jacint Jordana. 2005. "The Making of a New Regulatory Order." *Annals, AAPSS* 598:6-9.
- Lieberson, Stanley. 1985. *Making it count : the improvement of social research and theory*. Berkeley: University of California Press.
 — — —. 1992. "Small N's and Big Conclusions." In *What is a case?*, ed. C. C. Ragin and H. S. Becker. New York: Cambridge University Press.
- Lijphart, Arend. 1984. *Democracies. Patterns of Majoritarian and Consensus Government in*. New Haven and London: Yale University Press.
 — — —. 1999. *Patterns of Democracy. Government Forms and Performance in Thirty-Six Countries*. New Haven: Yale University Press.
- Maggetti, Martino. 2007. "De Facto Independence After Delegation: A Fuzzy-Set Analysis." *Forthcoming*.
- Mahoney, James. 2007. "Qualitative Methodology and Comparative Politics." *Comparative Political Studies* 40 (2):122-44.
- Mahoney, James, and Gary Goertz. 2004. "The Possibility Principle: Choosing Negative Cases in Comparative Research." *American Political Science Review* 98 (4):653-69.
- Majone, Giandomenico. 1994. "The Rise of the Regulatory State in Europe." *West European Politics* 17 (3):77-101.
 — — —. 2001a. "Nonmajoritarian Institutions and the Limits of Democratic Governance: A Political Transaction-Cost Approach." *Journal of Institutional and Theoretical Economics* 157:57-78.
 — — —. 2001b. "Two Logics of Delegation: Agency and Fiduciary Relations in EU Governance." *European Union Politics* 2 (103).
- March, James G., and Johan P. Olsen. 2004. "The logic of appropriateness." *ARENA Working Papers* 04 (09):1-28.
- Olsen, Johan P. 2001. "Garbage Cans, New Institutionalism, and the Study of Politics." *American Political Science Review* 95 (1):191-8.
- Peters, B. G. 2001. *The Politics of Bureaucracy*: Routledge.
- Peters, Guy B. 1998. *Comparative Politics. Theory and Methods*. Houndsmills: Macmillan Press Ltd.
- Pierre, Jon. 2004. "Politicization of the Swedish civil service: a necessary evil - or just evil?" In *Politicization of the Civil Service in Comparative Perspective*, ed. B. G. Peters and J. Pierre. London: Routledge.
- Przeworski, Adam, and Henry Teune. 1970. *The Logic of Comparative Social Inquiry*. New York: Wiley-Interscience.
- Ragin, Charles C. 1987. *The comparative method : moving beyond qualitative and quantitative strategies*. Berkeley: University of California Press.
 — — —. 2000. *Fuzzy-set social science*. Chicago: University of Chicago Press.
- Rose, Richard, and W.J.M. Makenzie. 1991. "Comparing Forms of Comparative Analysis." *Political Studies* 39 (3):446-462
- Ruffieux, Roland. 1975. "The Political Influence of Senior Civil Servants in Switzerland." In *The Mandarins of Western Europe. The Political Role of Top Civil Servants*, ed. M. Dogan. New York: Sage.
- Sartori, Giovanni. 1970. "Concept Misformation in Comparative Politics." *The American Political Science Review* 64 (4):1033-53.
- Schmitter, Philippe, and Jürgen Grote. 1997. "The Corporatist Sisyphus: Past, Present and Future." *EUI Working Paper SPS* 97 (4):1-22.

- Sciarini, Pascal. 2002. "La formulation de la décision." In *Handbuch der Schweizer Politik = Manuel de la politique suisse*, ed. U. Klöti, P. Knoepfel, H. Kriesi, W. Linder and Y. Papadopoulos. Zürich: NZZ Verlag.
- Sciarini, Pascal, Sarah Nicolet, and Alex Fischer. 2002. "L'impact de l'internationalisation sur les processus de décision en Suisse: Une analyse quantitative des actes législatifs 1995-1999." *Swiss Political Science Review* 8 (3/4):1-34.
- Serdült, Uwe, and Christian Hirschi. 2004. "From Process to Structure: Developing a Reliable and Valid Tool for Policy Network Comparison." *Swiss Political Science Review* 10 (2):137-55.
- Serdült, Uwe, Christian Hirschi, and Chantal Vögeli. 2004. The Actor-Process-Event-Scheme as a Tool for Policy Network Comparison. Paper read at SVPW annual meeting, 19/11/2004, at Balsthal.
- APES - Actor-Process-Event Scheme. IPZ, University of Zurich, Zurich, Switzerland.
- Siaroff, Alan. 2003. "Varieties of Parliamentarianism in the Advanced Industrial Democracies." *International Political Science Review* 24 (4):445-64.
- Thatcher, Mark, and Alex Stone Sweet. 2002. "Theory and Practice of Delegation to Non-majoritarian Institutions." *West European Politics* 25 (1):1-22.
- Tsebelis, George. 2002. *Veto Players: how Political Institutions Work*. Princeton: Russel Sage Foundation/ Princeton University Press.
- Varone, Frédéric. 2007. "The Federal Administration." In *Handbook of Swiss Politics*, ed. U. Klöti, P. Knoepfel, H. Kriesi, W. Linder, Y. Papadopoulos and P. Sciarini. Zürich: Neue Zürcher Zeitung Publishing.

Tables

Table 1: formal independence of agencies

Agency	Label	Formal independence
Konkurrensverhet	sweco	0.41
Wettbewerbskommission	swico	0.45
Nederlandse Mededingingsautoriteit	netco	0.46
Eidgenössische Bankenkommission	swibk	0.48
Autoriteit Financiële Markten	netbk	0.53
Finansinspektionen	swebk	0.54

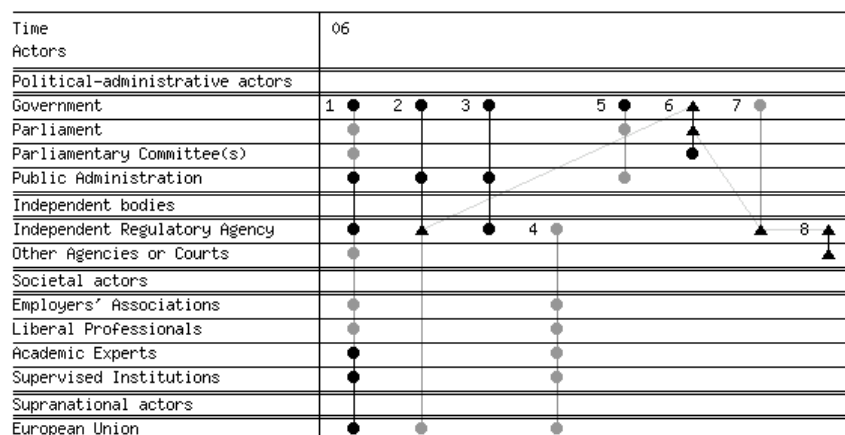
Table 2: Typology of agencies according to their de facto independence

	De facto independence from the political decision-makers: high	De facto independence from the political decision-makers: low
De facto independence from the regulatees: high	- Konkurrensverhet	- Finansinspektionen - Nederlandse Mededingingsautoriteit
De facto independence from the regulatees: low	- Autoriteit Financiële Markten - Eidgenössische Bankenkommission - Wettbewerbskommission	

Table 3: Case selection

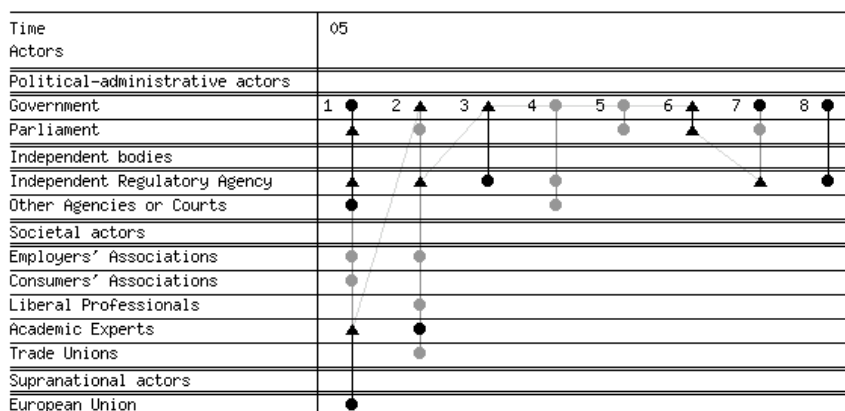
Sector	Type of legislation	Country	Piece of legislation	Related RA	Label
Banking and financial sector	Enhance prudential supervision	Netherlands	<i>Act on the Disclosure of Major Holdings and Capital Interests in Securities-Issuing Institutions, of 2006</i>	Autoriteit Financiële Markten	netbk
		Sweden	<i>Banking and Finance Business Act, promulgated on 2004</i>	Finansinspektionen	swebk
		Switzerland	<i>Stock Exchange and Securities Traders Act, revised in 2006</i>	Eidgenössische Bankenkommission	swibk
Competition	Promoting competition	Netherlands	<i>Competition Act, revised in 2005</i>	Nederlandse Mededingingsautoriteit	netco
		Sweden	<i>Competition Act, revised in 2004</i>	Konkurrensverhet	sweco
		Switzerland	<i>Act on Cartels, revised in 2003</i>	Wettbewerbskommission	swico

Table 4: Role of the netbk



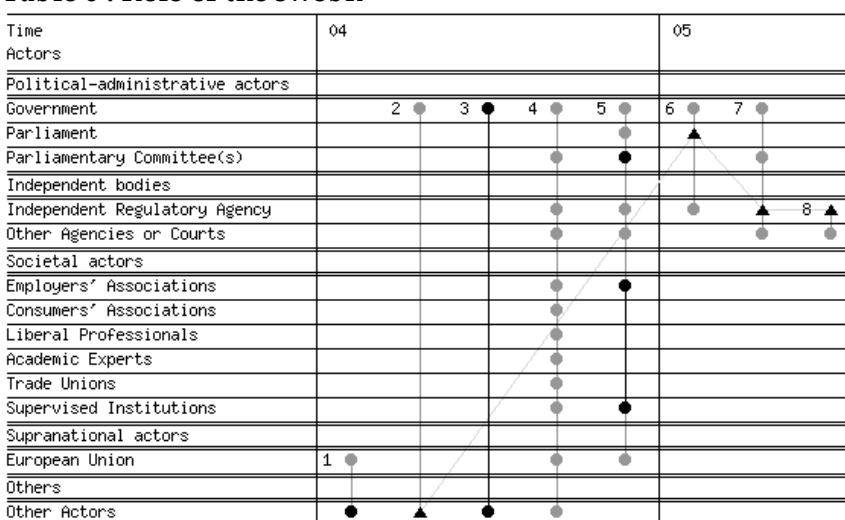
Actors	Centrality
Government	72.000
RA	70.000
Public Administration	53.000
European Union	42.000
Academic Experts	35.000
Supervised Institutions	35.000
Parliament	34.000
Parliamentary Committee(s)	28.000
Other Agencies or Courts	25.000
Liberal Professionals	21.000
Employers' Associations	21.000

Table 5: Role of the netco



Actors	Centrality
RA	90.000
Government	87.000
Parliament	68.000
Academic Experts	62.000
Other Agencies or Courts	32.000
European Union	30.000
Employers' Associations	27.000
Consumers' Associations	16.000
Liberal Professionals	11.000
Trade Unions	11.000

Table 6 : Role of the swebk

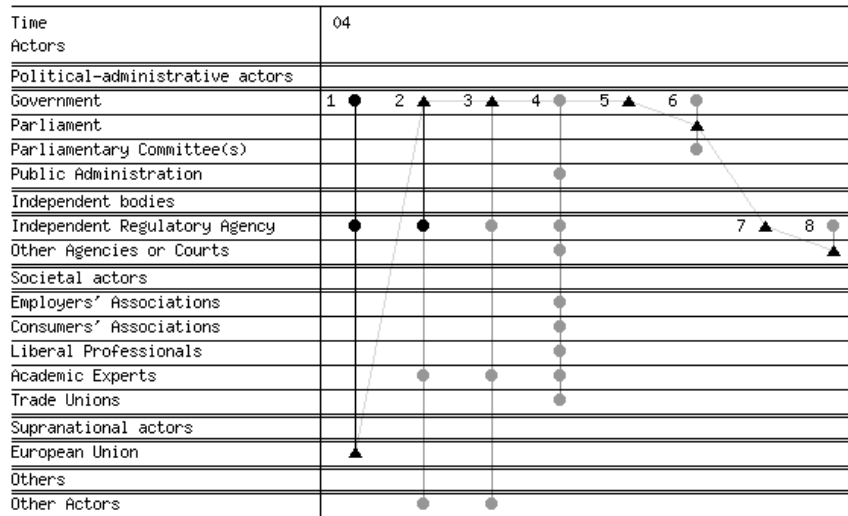


Actors	Centrality
Government	37.000
RA	37.000
Parliamentary Comm.	34.000
Other Agencies or Courts	29.000
Supervised Institutions	29.000
Employers' Associations	29.000
European Union	23.000
Other Actors	20.000
Parliament	16.000
Trade Unions	11.000
Liberal Professionals	11.000
Academic Experts	11.000
Consumers' Associations	11.000

Tables 4-9: APES Legend

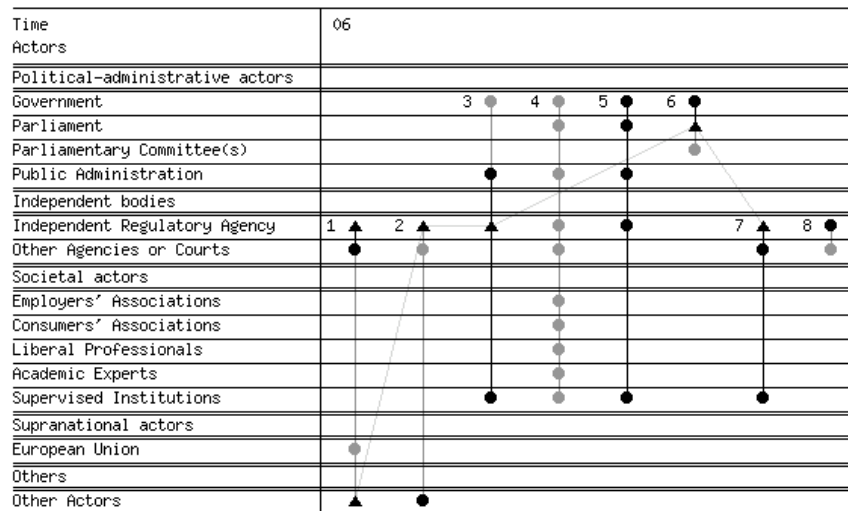
- Low weight (1,2,3) / passive participation
- Medium weight (4,5)
- ▲ High weight (6,7)

Table 7: Role of the sweco



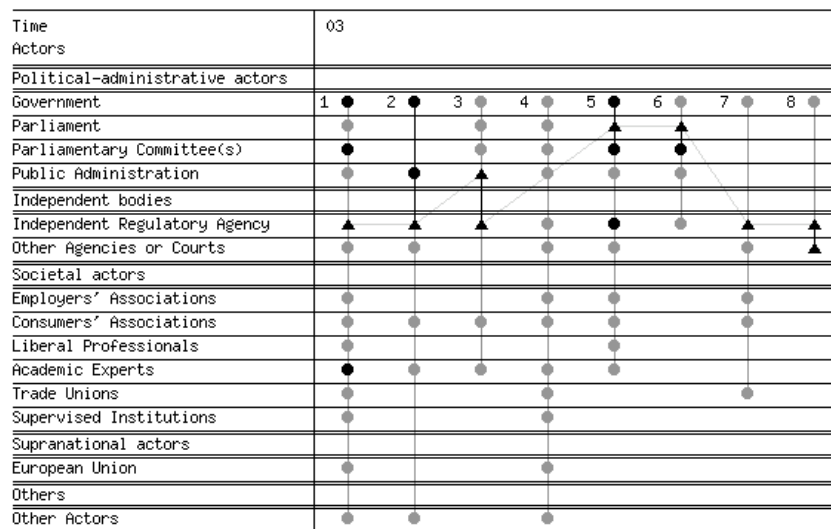
Actors	Centrality
Government	43.000
RA	36.000
Academic Experts	19.000
European Union	12.000
Other Agencies or Courts	11.000
Other Actors	11.000
Consumers' Associations	8.000
Trade Unions	8.000
Liberal Professionals	8.000
Public Administration	8.000
Employers' Associations	8.000
Parliament	6.000
Parliamentary Comm.	4.000

Table 8: Role of the swbik



Actors	Centrality
RA	81.000
Supervised Institutions	47.000
Government	40.000
Other Agencies or Courts	40.000
Public Administration	37.000
Parliament	34.000
Other Actors	26.000
Liberal Professionals	9.000
Academic Experts	9.000
Consumers' Associations	9.000
Employers' Associations	9.000
European Union	8.000
Parliamentary Comm.	5.000

Table 9: Role of the swico



Actors	Centrality
RA	168.000
Government	120.000
Parliamentary Comm.	94.000
Public Administration	93.000
Parliament	91.000
Academic Experts	80.000
Other Agencies or Courts	73.000
Consumers' Associations	71.000
Employers' Associations	51.000
Other Actors	40.000
Trade Unions	37.000
Liberal Professionals	32.000
Supervised Institutions	30.000
European Union	30.000