

On Formation of Policy Analysis and Legal Policy in Estonia

This article*¹ is a policy analysis in the context of the transition societies of Western countries (USA) and, in particular, of East and Central European Countries, including Estonia. A review is provided of “think tanks” as an opportunity to shape an independent, analysis-based legal policy in Estonia.

1. Background

The short-term strategic goal of Estonia is to ensure acceptance into the European Union. However, this should not prevent us from thoroughly considering what exact conditions to adopt in order to procure accession, and what should be left for future decision-making. The period of urgent decisions, including the structuring of the state mechanism, is coming to pass, which leaves us at the time to draft long-term activity plans. Strategic planning based on objective analysis, presentation of alternatives, and inclusion of the public greatly determines Estonia’s development in the forthcoming decades. The policy planning culture in the general meaning has not reached a satisfactory level. Decisions are based on the “best understanding” of the decision-maker to a much greater extent than should be. Analysis has often been regarded as a time-consuming and unnecessary activity that more often impedes the process of decision-making rather than helping it.

On the other hand, the social status for analysts has been relatively low in Estonia. Analysts often lack access to high-level meetings and, hence, lack an overview of the actual situation. The results are lengthy analyses that do not indicate clear or feasible alternatives. Because of the lack of adequate analysis,

¹ The article is based on information collected by the author in the course of consultations: 13–14 January 2000 – International Centre for Policy Studies, Kiev, Ukraine. See <http://www.icps.kiev.ua/english/index.htm>; 13–14 March 2000 – Institute for Public Affairs (IVO), Bratislava, Slovakia; 24 March 2000 – European Policy Centre, Brussels, Belgium. See <http://www.theepc.be> and Centre for European Policy Studies, Brussels, Belgium. See <http://www.ceps.be>. As chairman of the board of the Open Estonia Foundation, the author had an opportunity to take part in discussions in the common meeting of Soros funds of the Baltic countries – Public Policy Development Workshop: Riga, February 3–4, 2000 and in the 5th Open Society Forum: Policy-making and Civil Society, Tallinn, 5 May 2000. The review also makes use of other materials drawn up in preparation for a public policy centre in Estonia. On 9–11 May 2000 George Soros, well-known US billionaire and philanthropist, visited Estonia on the occasion of the 10th anniversary of the Open Estonian Foundation and it was decided during the visit to found the public policy centre as a foundation. On 29 June 2000, the board of Open Estonia Foundation approved the start-up budget of the newly founded centre – the Foundation “PRAXIS Center for Policy Studies” (PRAXIS). See http://www.epl.ee/artikkel.php3?primary_id=86809&ID=1&grupp=69&kuupaev=2000-05-26.

politicians and officials often justify the ratification of one document by another document, or base their decision on “best intentions” lacking a meaningful argument. There is no serious experience in trusting the information necessary for analysis to nongovernmental institutions. Therefore, too many decisions that influence the future of Estonia are made without any prior policy analysis, *i.e.* without considering different options, and without assessing their possible social and economic impact. The weakness of the policy-making process has been outlined in the latest EU Progress Report regarding Estonia.^{*7}

Although Estonia has several institutions that provide a certain level of policy knowledge, the main problems of the policy research in Estonia^{*8} are the following:

- institutional identity of the research institutes is quite low because most of the researchers do not identify themselves with only one institution;
- there is no institutional guarantee: the quality depends rather on individual researchers;
- the research is often very narrow: the research is usually limited to the description of the problems and rarely includes policy alternatives and recommendations;
- most of the institutes operate on the basis of the short-term projects. That does not enable them to serve as independent critics and analysts of government policies;
- the efforts of the researchers are used in government expert committees on an individual basis and the results of the independent analyses are often ignored;
- there is almost no competition between the different experts and approaches used. It has been indicated that many topics are “monopolised” by certain experts and it is very difficult for newcomers to get in;
- there is the lack of expertise in many crucial and specific fields of public policy.^{*9}

The challenge of public policy development in Estonia is two-fold: governmental and societal.^{*10}

On the one hand, there is a need to enhance the capacity of official institutions ability to conceptualise and elaborate innovative policy initiatives. For instance, in recent years a number of government ministries and departments in Estonia have begun to establish limited policy planning staffs. At the same time, the majority of these groups suffer from two important shortcomings. Firstly, despite all of their good intentions many of them often remain preoccupied with day-to-day political battles instead of focusing attention toward long-term policy issues. As Estonia begins to face many of the strategic choices it must make during its accession to the European Union, government officials need a chance to develop a future perspective and elaborate those steps that will be necessary for successful accession. Secondly, existing policy planning staffs usually lack professional training in public policy development, relying instead on previous practical experience on the job. Thus, greater professional knowledge about policy-making must be indoctrinated into the system.

From the societal perspective, public policy development also requires a strong civil society to provide critical input and feedback all along the policy-making road. The ability of advocacy groups and interest sectors not only to participate in the process, but also to develop alternatives of their own, is essential for public policy to work in an open and cooperative context.

⁷ According to the Report: “The process of developing legislation, carrying out inter-ministerial consultations and presenting legislation for adoption to the parliament is well established and relatively efficient. However, it appears that this process takes place against a background of limited policy development and analysis – there is insufficient assessment of the budgetary, social and economic impact of proposals. There is also limited consultation with outside organisations. This reflects weaknesses of policy-making skills within Ministries. Although Explanatory Notes accompanying legislation are regularly prepared, the quality of this material is generally low. There is no tradition in Ministries in engaging in policy analysis, but rather the normal approach is to proceed directly to legal drafting.” Available at: http://europa.eu.int/comm/enlargement/estonia/rep_10_99/b4.htm.

⁸ It is clear that the general context of the Baltic countries is not much different from these conclusions. This is evidenced by the detailed review of the situation in Latvia that the author was able to examine. See Independent Public Policy Analysis in Latvia: Situational Overview and Conclusions. Manuscript by A. Neimanis and I. Indāns. Riga, 1999.

⁹ Public Policy Institute (PPI). Status Report. Open Estonia Foundation. Manuscript. 31 March 2000. Tallinn.

¹⁰ Public Policy Institute (PPI). Preliminary Programme Outline. Prepared by the PPI Programme Committee: H. Aru, P. Lõhmus, V. Pettai, T. Randma. Manuscript. 1 May 2000. Tallinn.

2. What Is a “Think Tank”?^{*11}

Public policy research organisations first appeared in the USA and Europe at the turn of this century when organisations such as the Brookings Institutions^{*12}, the Carnegie Endowment for International Peace^{*13}, the Kiel Institute of World Economics^{*14} and the Royal Institute for International Affairs (1920) were established. The term “think tank” was introduced in the United States during World War II to characterise the secure environment in which military and civilian experts were situated so that they could develop invasion plans and other military strategies. After the war, the term was applied to contract researchers, such as the Rand Corporation^{*15}, that did a mixture of deep thinking and programme evaluation for the military. The use of the term was expanded in the 1960s to describe other groups of experts who formulated various policy recommendations, including some quasi-academic research institutes concerned with the study of international relations and strategic questions. By the 1970s, the term “think tank” was applied to institutions focusing not only on foreign policy and defence strategy, but also on current political, economic, and social issues. They include a wide range of privately organised groups of experts who perform research in a variety of disciplines and inform policy-makers, and the general public, of their research findings.

As organisations of civil society, think tanks play a number of critical roles, including: playing a mediating function between the government and the public; identifying, articulating, and evaluating current or emerging issues, problems, or proposals; transforming ideas and problems into policy issues; serving as an informed and independent voice in policy debates; and providing a constructive forum for the exchange of ideas and information between key stakeholders in the policy formulation process.

There has been a veritable explosion in recent years of think tanks since the 1970s, and there are thought to be more than 3,500 think tanks in the world today.^{*16} One of the possible classifications of think tanks is presented in the following.

The culture and structure of **academic-diversified** think tanks (Brookings Institutions) are similar to universities in every respect except that they do not have students – a fact which has led some to describe this brand of think tank as a “university without students.” The primary difference between **academic-diversified** and **academic-specialised** think tanks (National Bureau of Economic Research)^{*17} is their degree of specialisation. **Academic-diversified** think tanks tend to conduct research and analysis on a whole range of policy issues such as economics, foreign policy, the environment, etc., while **academic-specialised** institutions focus on a single issue or discipline such as economics or welfare reform. Think tanks that perform the majority of their research and analysis for government agencies are often described as **contract research organisations** (RAND Corporation). Those that promote a point of view are described as **advocacy think tanks** (Institute for Policy Studies) because their analysis has a sharp partisan edge. In an effort to develop new and innovative ways to reach policy-makers, a host of **policy enterprises** have been

¹¹ The following part of the text is largely based on the report by James McGann (Foreign Policy Research Institute, USA), who has studied think tanks all over the world for many years, titled “Tanks and Civil Societies in a Time of Change” at the 5th Open Society Forum: Policy-making and Civil Society, Tallinn, 5 May 2000.

¹² The Brookings Institutions, founded in 1916, Washington D.C. A private, independent, nonprofit research organisation, Brookings, seeks to improve the performance of American institutions, the effectiveness of government programs, and the quality of US public policies. In its research, the Brookings Institution functions as an independent analyst and critic, committed to publishing its findings for the information of the public. In its conferences and activities, it serves as a bridge between scholarship and public policy, bringing new knowledge to the attention of decision-makers and affording scholars a better insight into public policy issues. Available at: <http://www.brookings.org/about/aboutbi.htm>.

¹³ The Carnegie Endowment for International Peace was established in 1910 in Washington D.C., with a gift from Andrew Carnegie ... [T]he Endowment conducts programs of research, discussion, publication, and education in international affairs and US foreign policy. The Endowment publishes the quarterly magazine, Foreign Policy. Available at: <http://www.ceip.org/index.html>.

¹⁴ Kiel Institut für Weltwirtschaft (IfW), has become an important international centre for economic research and documentation. The Institute Library is one of the world’s largest libraries for economics and social sciences.

¹⁵ Rand Corporation, founded in 1948. A nonprofit institution that helps improve public policy through research and analysis. Rand’s broad research agenda helps policy-makers strengthen the nation’s economy, maintain its security, and improve its quality of life by helping them make choices in education, health care, national defence, and criminal and civil justice, among many other areas. Available at: <http://www.rand.org/ABOUT/index.html>.

¹⁶ See http://www.vote-smart.org/organizations/THINK_TANKS_RESEARCH_INSTITUTES; NIRA’s World Directory of Think Tanks 1999. Available at: <http://www.nira.go.jp/ice/ttinfo/nwdtt99/index.html>; An Alphabetical Directory of Web Sites Providing Information on Multiple Public Policy Issues. Available at: <http://www.lib.msu.edu/harris23/govdocs/pubpol.htm>.

¹⁷ The National Bureau of Economic Research, Inc. (NBER), founded in 1920, Cambridge. NBER is a private, nonprofit, nonpartisan research organisation dedicated to promoting a greater understanding of how the economy works. The NBER is committed to promoting and disseminating unbiased economic research among public policy-makers, business professionals, and the academic community. Available at: <http://www.nber.org>.

established. These policy enterprises place a premium on packaging and marketing their ideas and stand in stark contrast to the academic-oriented think tanks that practice a more traditional approach to public policy research and analysis.^{*18} In the United States and other countries around the world, there are literally tens of thousands of university-based research centres (Asia Pacific Research Center)^{*19} that conduct research on a wide range of public policy issues. These institutions provide a critical link in the “intellectual food chain,” which consists of all those institutions that are engaged in public policy research and analysis. There is an ecology that exists in the policy research community that makes these institutions dependent on one another for their effectiveness and survival.

In Asia, Europe, and Latin America quasi-independent think tanks outnumber independent ones for a variety of reasons, including the close relationships between business and government in these countries, as well as the support that these institutions receive from political parties. In Germany^{*20}, for example, political parties instead provide many of the functions provided by think tanks in the United States. One should also keep in mind that within the United States there are for-profit organisations (Stanford Research Institute, founded in 1946) and government think tanks (Congressional Research Service, founded in 1914) that provide research and analysis for policy-makers.

It must be admitted that developing a precise definition for “think tank” is difficult to do, but most experts agree that independent public policy research organisations are best equipped to provide impartial analysis and debate of public policy issues. Think tanks are an integral part of the civil society and serve as an **important catalyst** for ideas and action in emerging and advanced democracies around the world. What they all have in common is that they are nonprofit, independent of the state, and dedicated to transforming policy problems into appropriate public policies.^{*21}

3. The Central and Eastern European Context (the Former Soviet Union – Ukraine)

3.1. General Remarks

As think tanks have expanded geographically, they have had to adapt to new conditions. In central Europe and the former Soviet Union think tanks developed at the end of the 1980s and later. Some of them have become known as the most successful centres in the region that, by involving the acclaimed experts of the area^{*22}, actively participate in debates and discussions. The author was able to visit the International Centre for Policy Studies (ICPS) in Kiev^{*23} and the Institute for Public Affairs (IVO) in Bratislava^{*24} in the first half of this year.

As the Ukrainian experience shows, the role of ICPS in policy-making is very much evident in the sphere of economy, especially through such key institutions as the bank and the Ministry of Economy and Finance.^{*25} A number of important projects have concentrated in these institutions and collaboration is

¹⁸ J. McGann (Note 6).

¹⁹ Asia Pacific Research Center, Stanford University 1977. Available at: <http://aparc.stanford.edu>.

²⁰ See e.g. M. Thunert. *Advising the Government and the Public: Think Tanks in Germany*. The American Institute for Contemporary German Studies.

²¹ J. McGann (Note 6).

²² I would like to refer to Professor B. Krawchenko who was a founder and director-general of the Ukrainian Institute (now Academy) of Public Administration, Chair of Steering Committee of Open Society Institute's (OSI) Local Government and Public Service Reform Initiative. He is charged with setting up Central European University's (CEU) Center for Policy Studies.

²³ International Centre for Policy Studies, director Vira Naniivska (PhD) – formerly Programme Development Officer at the World Bank Mission in Ukraine and a senior Researcher and Lecturer at Moscow State University).

²⁴ Other recognised institutions in this region are the Institute of Sociological Studies of Charles University (Director Martin Potucek) and the Institute for Public Affairs (IVO) in Bratislava. The author had an opportunity to consult the President of the latter, Grigorij Meseznikov, during a visit in March.

²⁵ For example, the ICPS project – Country Economic Memorandum Project – in dialogue between the government and the World Bank ICPS is involved in writing World Bank Country report. In the framework ICPS organises seminars and experts discussion. As the result of the discussions and with help of foreign consultants ICPS develops policy papers for eight sectors: fiscal policy, education, health, social security, etc.

made with them. To achieve actual changes in influencing policy, the president^{*26} and government spheres are an important partner since the project initiation. This attitude may be partly because, if ICPS stood in opposition in a situation where the tradition of democracy is short, experience inadequate, and different interests clash, it would be critical for reaching practical results. I would like to believe that the fact that the project supports state agencies in the first order does not exclude constructive criticism of the project.

The objective of ICPS projects is not to “produce papers”, but to offer alternative solutions and influence policy in cooperation with the public.^{*27} The role of the centre is to be the facilitator to the government and also the mediator between the government and foreign donors.

Still, it should be kept in mind that most countries in Central East Europe and the former Soviet Union do not have strong philanthropic traditions or tax laws that encourage private philanthropy; therefore, think tanks in these countries are primarily funded by governments, political parties, or international donors. This makes these institutions particularly dependent on potentially unstable sources of support. The lack of independent support also raises questions about both the long term viability of these institutions and their ability to provide truly independent research efforts and analyses.

Concerning Estonia, it must be brought into light that acquaintance with PPIs operating in various environments has been essential in the establishment of its own top level institution. The social situation greatly determines the strategy and main tasks of the centre in the given stage of development. It is essential to have knowledge of the PPI models functioning in developed and stable societies, particularly in the European Union member countries, so as to be able make an educated final choice of the model to be effectively employed in Estonia.

3.2. On Cooperation Partners

The question of PPI partners is a key issue. This is the basis for determining the role of the institute against the background of other institutions in a specific country. Here is where public attitude and opinion originate from. One possibility to determine the PPI partners is to define as clearly as possible, the attitude (the so-called “inflexible” position) in the starting period of the institution, *i.e.* to work together with government agencies or to keep distance from them. It seems, however, that it is not practical to posit the problem in this way. The keyword in the dilemma, with or without the government, rather, is the specific environment in which the PPI functions. Another important basis is the essence and goals of the project to be launched. Depending on the project, PPI may, and has to have the opportunity to stand in opposition to the government and take the role of a critical thinker. The idea of the PPI project is to focus on policy analysis and offer alternative solutions before decisions are made. It is essential to offer a multiplicity of ideas for the given questions and to activate social dynamics.

International cooperation is essential to the viability and future of PPI, especially in view of the general trend of project partnership in the context of accession to the European Union. There is an efficient opportunity for international cooperation through specific projects and programmes rather than through the PPI institutional level. Foreign partnership is important from two aspects: knowledge, experience (including methodology^{*28}, etc.), and financing.

²⁶ Project – Ukraine’s future: Plan for the President. As the result of the roundtable discussions of experts, a paper is prepared that points out the areas where the need for reforms is most urgent. The paper points out goals, problems, necessary measures, resources and constraints. The document includes also a short guide to policy analysis.

²⁷ See *e.g.* People’s Voice Project – ICPS conducted public service delivery surveys in four cities of Ukraine. The survey estimated the quality of services and corruption. In the framework ICPS designed Code of Ethics for state officials and promoted open budget hearings – stating how much money was in the budget, how much there is now and where did it go. Public awareness campaign (publications, TV and radio programs) was part of the project.

²⁸ For methodology, see *e.g.* W. Dunn. *Public Policy Analysis: An Introduction*. 2nd ed., Prentice Hall: New Jersey, 1994; E. Bardach. *Policy Analysis: A Handbook for Practice*. A eight-step path has been described: define the problem, assemble some evidence, construct the alternatives, select the criteria, project the outcomes, confront the tradeoffs, decide, tell the story. – Cascade Center for Public Service, 1995.

4. Policy Analysis and Legal Policy

The connection between policy analysis and think tanks with legal policy development in Estonia is an interesting topic, especially in a situation where experience concerning think tanks^{*29} generally exists, but their role in the shaping of legal policy has been marginal so far. It must be said that the concept of think tank in itself is relatively new in the Estonian legal environment and requires implementation.^{*30} Legal policy is also rather little studied as a field of research. Partly, this may be due to the fact that it has not been desirable to assess the effect of decisions on the necessary level. Decisions are based on the “best understanding” of the decision-maker to a greater extent than they should be. Analysis has often been regarded as a time-consuming and unnecessary activity that impedes rather than helps decision-making.

Many top lawyers have expressed concern about the lack of the relevant practice.^{*31} Supreme Court Justice, Visiting Professor of the University of Tartu E. Kergandberg has written: “All larger Estonian political parties agreed that Estonia needs a new Code of Criminal Procedure (hereinafter: CCP). A commission consisting of Estonian lawyers and three foreign experts was formed by the Ministry of Justice, which had to formulate all the most important options related to the new CCP for the politicians and explain the consequences arising from the selection of different variants. The commission completed its work in three months and forwarded the catalogue of options to the politicians, who then made their choices and started preparing the code... Unfortunately, it has to be said that no such systematic and planned work as described above has actually occurred in Estonia. Subsequently, the draft of the Estonian CCP may undoubtedly be called a certain option (or sum of options) if one so wishes, but as a participant in the working group that prepared the draft, I have to admit that since there was no legal political order for development of a catalogue of options, there was no substantial theoretical discussion of the main conceptual issues of the draft. This does not mean that the persons who prepared the draft did not rely on the standpoints of special literature, or did not try to follow the contemporary tendencies in the law of criminal procedure and solutions from the practice other states have in the creation of laws. Despite this, many choices in the work group were made as a result of voting and sometimes they were rather intuitive than anything else. Therefore, it may be said that to a large extent, the drafts of the CCP have been designed by the great magician, chance. In my opinion, one of the reasons why accidental factors have actualised that could be mentioned above all is knowledge of foreign languages (for example, the opinion of a person who speaks only Swedish is that no issue can be solved better anywhere else than in Sweden): the opinion that some regulation seems to be “too Soviet” and therefore a completely different solution should be used; the standpoint that “I have treated this issue so thoroughly in my scientific articles that my *de lege ferenda* proposal simply must become law”; the understanding of practising lawyers that “how come things are suddenly like this when they have always been otherwise”, etc. At the same time one may assume that the described situation in the preparation of the draft of the Code of Criminal Procedure is not exceptional in the creation of laws in Estonia (maybe even in all of the so-called former Eastern bloc countries).”^{*32}

Criminal policy issues have been addressed in more detail by Professor J. Sootak.^{*33} In his article “Theories of Punishment and Criminal Law Reform (Reform as Change of Mentality)” he writes: “Estonian legal reform as a whole and, consequently the reform of Estonian criminal law aspire to disembark the totalitarian Soviet law and mould a European legal system that matches the current level of jurisprudence. The matter, however, does not just involve the dogmatic review of certain problems but also concerns the legal philosophical and legal political bases of the reform of criminal law. Hopefully, the issue of the exact theoretical basis of punishment which should underlie the development of our criminal law as a whole –

²⁹ See e.g. UNDP. Estonian Human Development Report working groups. Available at: <http://www.undp.ee/nhdr.ee.html>. State agencies also have used strategic planning before: many researchers of the Institute of International and Social Studies (RASI) are involved in the orders of ministries. Available at: <http://gaia.gi.ee/iiss/eng>.

³⁰ A short and practical guide book on how to do good policy analysis should be published. It should explain the main concepts and basic terminology, objectives, bases of activities, procedure and methodology of public policy – the general framework in which public policy programmes/projects function – as clearly as possible.

³¹ Statements have been made, as a rule, concerning law and politics: “There is no politics outside the law and no law outside politics. Legislative drafting is a chain of legal political decisions made by politicians who are authorised by people. Decisions adopted in the legislative drafting process are political and must be kept apart from decisions on the implementation of Acts which are nonpolitical. The responsibility of politicians should be clearly separated from the responsibility of officials”. In: M. Rask. Political Affiliations and Law. – *Juridica*, 1998, No. 4, pp. 166–167.

³² See the article by E. Kergandberg in the same issue.

³³ See e.g. J. Sootak. *Kriminaalpoliitika (Criminal Policies)*. Tallinn: Õigusteabe AS Juura, 1997; J. Sootak. *Uuematest arengutendentsidest karistusteoorias ja kriminaalpoliitikas (Newest Developments in Punishment Theory and Criminal Policy)*. – *Juridica*, 2000, No. 1, pp. 3–13.

an issue that is of paramount importance to Estonia as it continues to undergo reforms – and the law of sanctions and the bases of imposing penalties will attract the attention of scientific communities. ... The issue of punishment theories is a part of criminal policies or the bases of criminal law ...”³⁴

It should be noted that the Faculty of Law of the University of Tartu, as a representative of academic circles, has repeatedly raised the issue of participation in legal drafting.³⁵ The Faculty, in its mission, has seen its participation in the development of legal policy to ensure the implementation of the principles of a state governed by the rule of law in the Estonian legal order. This has been stressed in the development plans of the Faculty. In the preparation of the Faculty’s latest development plan in this year, it was realised that the Faculty must continue to participate in the preparation of conceptual bases for legal reform and in legislative drafting, to analyse the functioning of the legal order, and provide relevant opinions on constitutional institutions, as well as the inform the public.³⁶

In light of the aforementioned, the importance for influencing the previous action of politicians “deciding on the basis of gut reaction” and the present “tradition” in the sphere of law, becomes more apparent. During the new independence period, continuous reorganisation and legal changes have taken place in Estonia under the name of reform, while there has been no attempt to create a holistic picture of what is bad in the existing law, and what new laws should eventually be like. A functioning system should be created for “processing” problems by joining scientific analysis, expertise by specialists, and public interest.

One possibility is to set up inter-institutional working groups³⁷ whose positive aspects would be to have independence from institutional interests, personal responsibility (personal motivation) for project results, and the study of processes relevant from the public interest viewpoint.

Another possibility is to set up independent strategy centres that are able to adequately analyse the processes taking place in the society and influence these processes by offering analysis, finding alternatives, and formulating solutions. One may presume that certain circles in Estonia understand the necessity for such strategy centres, or at least the necessity to improve the quality of analysis: politicians would like to use correct arguments in preparation of their politics.³⁸ Unfortunately, this understanding has not concentrated sufficiently from the “critical mass” aspect, and a model that would function in our environment has not been developed. Discussions with practising lawyers, jurists, and other sociology specialists, and the involvement of the public are essential for reaching good results.

The initiators of such a centre should:

- have as close as possible link to top decision-makers (including the government) through personal contacts and be respected by these circles for their professionalism;
- have considerable contacts in foreign countries to gain the necessary knowledge where required;
- have earlier experience in practical public policy activities: how actual policy has been and is being drafted, what the existing mechanisms are, etc;
- be able to remain neutral where only political positions/programmes are in question (specific promises to electors);
- be capable of constructive cooperation with different interest groups and have the time essential for the initiation period.

³⁴ See the article by J. Sootak in the same issue.

³⁵ Participation of Academic Staff as Heads or Members of Work Groups (Authors) in Drafting Bills in 1991–1998. In: K. Merusk, R. Narits, P. Pruks. On Legal Bases and Process of Accreditation of Teaching of Law in Estonia (University of Tartu Faculty of Law Case). – *Juridica International. Law Review. University of Tartu*, III, 1998, pp. 159–162.

³⁶ See P. Pruks. Academic Legal Education in Estonia: Current State and Perspectives (Faculty of Law of the University of Tartu). – *Juridica International. Law Review. University of Tartu*, I, 1996, pp. 139–158.

³⁷ An example of such integration is the cooperation project of the Faculty of Law of the University of Tartu, the Supreme Court and the Estonian Law Centre Foundation “Restriction of Corruption in a Transition Society (Legal Aspect)” initiated by the Open Estonia Foundation. The main objective is to identify the corruption-sensitive areas in Estonia and provide legally competent methods of corruption control. The two-year project was initiated by a working group of five members: K. Merusk (Dean of Faculty of Law of University of Tartu, Professor of Constitutional and Administrative Law), R. Narits (Head of Institute of Public Law of University of Tartu, Professor of Comparative Jurisprudence), U. Lõhmus (Chief Justice of Supreme Court), M. Gallagher (Foreign Advisor to Estonian Law Centre) and K. Kenapea (lawyer). The project is carried out by the Estonian Law Centre (Managing Director Aavo Kaine). The project that started in 1999 is supported by the Open Estonia Foundation (OEF) and COLPI (Constitutional & Legal Policy Institute) in Budapest. See P. Pruks. Korruptsiooni piiramisest Eestis (On Restriction of Corruption in Estonia). – *Juridica*, 2000, No. 1, pp. 67–68.

³⁸ This has been repeatedly stated by the Prime Minister: Opening speeches of M. Laar at the 5th Open Society Forum: Policy-making and Civil Society, Tallinn, 5 May 2000 and the XXIV Estonian Jurists Day: Legal Problems of Administrative Reform, Tallinn, 25 May 2000. The author has noticed the supportive attitude of Minister of Justice Mr. M. Rask to legal policy research in the course of consultations in spring this year concerning e.g. criminal procedure.

During establishment of a centre, a network of experts capable of launching and “processing” projects professionally should be created. Cooperation partners from foreign countries are necessary for comparative research, exchange of experience, and for the introduction of a functioning model to other countries.

If the position of the opinion-former is achieved through a politically neutral position and quality analysis, its influence on small countries may be greater than is currently believed. This would shape an environment where citizens are interested in the results of the decision-making process. Legal policy decisions taken this way would be much easier to legitimise. The centres would begin to create a tradition of strategic planning, and initiate a culture of more effective and better reasoned deciding in Estonia.