



SIGMA

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ROLE OF MINISTRIES IN POLICY DEVELOPMENT AND EVALUATION
FRANCE

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Introduction

Sometimes there are ministers without ministries. The minister only plays a political role in the government, as a representative of a party belonging to the parliamentary majority. Nevertheless, in general the minister is the political head of a ministry.

Whatever the institutional organisation may be, ministries have to play a leading role in policy development, monitoring and evaluation.

The purpose of this paper is to describe the role of ministries in the French political and administrative system.

The first role of the ministry is to develop policy. The ministry has to suggest ideas and measures to the minister to enable him to take part in the conception of government policy. The second role of the ministry is to implement the decisions taken by the government in its domain and to monitor and evaluate policies.

Another question is the organisation of the ministry: it must be suited to the roles the ministry has to play.

1 Policy Development

As a member of a political team and as an official responsible for a ministry, the minister must participate in the development of the government's policy.

When must he propose measures to the Prime Minister? What measures?

1.1 When?

The ministry must give data and advice to the minister in various circumstances.

Statement of political policy

Under the French Constitution, following his appointment the Prime Minister delivers a statement to parliament. The statement, prepared by all members of the government, presents the government's political programme and is followed by a vote of confidence. Generally, under the 5th Republic, the President of the Republic appoints two Prime Ministers in the course of a legislature.

The statement of political policy testifies to the agreement of the political majority that won the election. All ministries prepare drafts of their specific programme, which must be coherent with the political programme set forth in the election campaign.

Government programmes

Generally, governments in France approve a work programme every six months. In accordance with the programme issued by the statement of political policy, the twice-yearly programme indicates the bills and decrees that will have to be prepared and completed during the period.

Minister's agenda

The ministry prepares the minister's trips and meetings, which give him the opportunity to outline his policy. The ministry must gather documents for the minister on the subjects dealt with on these occasions.

General situation

The ministry must react to events and have a strategic approach to the sector under its responsibility. The role of the ministry is to follow the various matters and be ready to respond to the minister's questions. The ministry must also inform the minister of a particular matter even if the minister has not asked a question in this regard.

1.2 What to Suggest?

Needs and pressure

a) Need for measures

In France, ministers or legal authorities regularly complain about the excess number of rules. Sometimes a law has just been voted or a decree signed when a new text appears on the same subject. As for taxes, too many laws kill the law. Too many changes cause legal insecurity. Ignorance of the law is no excuse, but no one can know all of the laws if they change every year.

The first question that the minister and the ministry must ask themselves is whether a new text is necessary. Does the solution of the problem require a text? Is the implementation of the text in force well known? Is it not preferable to improve the analysis of impact of the current rules?

Departments in the ministry have to be careful not to propose needless texts. They must tell the minister that the text he has asked to be prepared is not useful at the moment.

Sometimes problems are identified in existing policies, including in terms of their enforcement and implementation, and the object of the new measure is to take into account the experience gained from this implementation. In another cases, the requirement of measures and texts comes from members of parliament or a professional organisation.

If the decision to apply a new measure is taken, the ministry has the task of identifying precisely the object of the measure.

b) Financing

Some measures are taken in order to save money. The Ministry of Finance can decide that it must reduce its expenditure, even expenditure foreseen in the annual budget.

Generally a new measure has a cost that must be evaluated. The Minister of Finance, who often countersigns the decision, will ask for a cost evaluation before giving his agreement to the measure.

One of the main roles of the ministry is to participate in the preparation of the annual budget. The ministry elaborates propositions, under the control of the minister and his cabinet. The ministerial department in charge of the budget has discussions with the Ministry of the Budget, and on most subjects they reach an agreement. The ministry has to carefully prepare this annual meeting. A meeting between the two ministers may be necessary, however. If the two ministers reach an agreement on nearly all of the points, then the Prime Minister arbitrates the remaining disagreements. The ministry is responsible for preparing this conclusive meeting in co-ordination with the cabinet of the budget advisor minister.

In 2001 parliament adopted a reform of budget bills. The budget had consisted of more than 800 chapters of expenditures. Following the reform, the budget is presented in about 100 programmes. Each programme contains expenditures in relation to the same target. The ministry may reallocate expenditures under the same programme. The Prime Minister may combine programmes of several ministries in a single "mission" when they have competencies in the same policy area.

To assist the minister in the preparation and management of the budget is one of the main tasks of the ministry. The implementation of ministerial policies depends on the annual budget.

c) Public pressure

When a measure is announced in the statement of political policy and is listed in the government programme, its implementation may face public pressure, especially from special groups, representatives of various interests, such as local, professional, religious or political groups. For instance, it has been decided to build a nuclear plant, but this decision faces the opposition of environmental leagues and local associations.

The ministry must inform the minister of these pressures and try to establish relations with these groups as soon as they are known in order to engage or prepare negotiations.

Sometimes the law provides for the compulsory consultation of a commission in which pressure groups are represented or of a professional group. For instance, consultation of the National Doctors Association is compulsory for many decisions concerning health. If a compulsory consultation is omitted, the decree is illegal.

Even when consultation is not compulsory, the ministry has to previously consult all representative groups in order to take into account their opinions and to prevent eventual criticism.

When pressure is strong, the minister may appoint an experienced person or commission outside the ministry to organise the debate. For important infrastructure works, French law provides for a public debate.

d) International agreements and commitments

Most bills, decrees and other measures are situated within an international legal context. International agreements and commitments provide the framework for national policies, especially when the country belongs to a regional organisation.

The French Government must transpose European "directives" into French laws. Other European rules directly apply. Many international agreements are also in force in France, such as those with the UN and the Council of Europe, as are bilateral agreements.

The ministry must analyse the proposed measure in its international context from a legal and political point of view. Today, the study of a measure must include an investigation of the solutions to a similar problem in other countries.

e) Studies

Normally, studies for the elaboration of a measure are carried out within the departments of the ministry. However, very often they need support from other ministries. The minister in charge of the text must consult the other ministers as soon as possible once the political orientations have been set.

In certain circumstances the government may assign the task of carrying out a study to a specialised body, such as an ad hoc task force, or to an independent expert. In the event of opposition by pressure groups to the proposed measure, an independent expert may be seen as being more objective than the ministry itself.

In cases where a new policy is developed, the preparation of proposals requires significant analysis and consultations with stakeholders.

Today, in France, all bills and decrees must be sent by ministries accompanied by an impact study. This document analyses the consequences of the project, the expected results in terms of change in the situation, the project's management and funding. The impact study pays special attention to concrete implementation requirements.

The ministry prepares bills, decrees and other decisions as orders of the minister, financial decisions or positions for international negotiation.

For a bill or a decree, the process is interministerial one, starting with the elaboration by the ministry and ending with the vote by parliament for bills and the signature of the President or the Prime Minister for decrees. During this process, the ministry plays a major role in following the project through its interministerial itinerary and in assisting the minister in the preparation of interministerial meetings and discussions in parliament.

1.3 Interministerial Work, the Council of State and Parliament

Once the minister has approved the proposal of a bill or decree elaborated by the ministry, the project follows an interministerial process.

Interministerial work

The ministry must have exchanges with other ministries when preparing the text, except if the text concerns only one ministry, which is unusual nowadays.

On the initiative of the ministry responsible for the text, meetings are held in a bilateral or multilateral way with other ministries involved in the measures, especially when the other ministers countersign the text. This is the first step in the preparation of the text.

The second step begins when the project is sent to the Prime Minister — both to his cabinet and to the general secretariat of the government (GGS), which is in charge of the co-ordination of interministerial work, especially for decrees and bills. The GGS manages the agenda for preparation of the texts and reviews their content from a legal and administrative point of view. The Prime Minister's cabinet, or the Prime Minister himself, reviews the drafts from a political standpoint.

Interministerial meetings are held whenever a government draft, bill or decree requires approval by several ministries. There are generally disagreements on some points. These meetings are chaired by a member of the Prime Minister's cabinet, assisted by a staff member of the GGS who calls the meeting, attends and draws up the official minutes. High-level representatives of each involved ministry attend the meetings.

A member of the Prime Minister's cabinet arbitrates in case of disagreement, and if necessary, refers the matter to the head of the cabinet. In some cases, the main disagreements have to be settled in a meeting of ministers, chaired by the Prime Minister. For some matters, permanent interministerial committees have been set up.

When the text has been approved by the chairman — either a member of the cabinet or the Prime Minister — the minutes are printed on blue paper (which indicates that they are binding) and distributed to the ministers involved. The decision itself is widely referred to as “blue paper”.

The number of interministerial meetings stands at about 1 500 meetings a year, and there are currently 50 permanent committees.

Role of the Council of State

The Council of State adopts numerous texts after scrutiny.

The Council checks the lawfulness of drafts and their conformity with the Constitution and international treaties, as well their administrative consistency and the estimated effectiveness of the measure envisaged. The Council must not take into account the political opportunity of the text.

The Council of State must be consulted on bills before they are submitted to the Council of Ministers for deliberation. They are then sent to parliament. Numerous draft decrees are also submitted to the Council of State, whenever the law requires this consultation prior to implementation of the regulations (referred to as decrees in the Council of State) or whenever the government requests such a consultation. Other non-statutory texts require the consultation of the Council of State, such as decisions concerning the status of state-approved associations.

Four administrative sections carry out the Council of State's consultative work: Interior Section, Finance Section, Public Works Section and Social Section. The text is distributed in co-ordination with the ministry that is principally responsible for it.

The draft worked out in the interministerial process is sent by the General Secretariat of the Government (GGS) to the Council of State, where it is assigned to one of the four administrative sections.

The draft is reviewed by a rapporteur, member of the Council of State, with the assistance of civil servants appointed by the GGS and the concerned ministries to provide information to the section on the scope of a text and the details of its elaboration. Based on the rapporteur's revised draft, a discussion takes place in the section together with representatives of the ministries. If necessary, the councillors of state, members of the section and the rapporteur vote on the main issues under discussion and on the draft. Then, for all bills and some decrees (if their importance justifies it), the draft is sent to the General Assembly, the highest consultative body in the Council of State, which is chaired by the Vice-President — the Head of the Council. Although the Prime Minister is officially the chairman of the General Assembly, he does not chair any meeting.

The deliberations of the section or the General Assembly of the Council of State are sent to the GGS and to the ministries involved. These consist of a redrafting of the text and a report in the event of disagreement with the government's draft.

The text adopted by the Council of State is reviewed by the ministries in a meeting, which is organised by the GGS and co-chaired by a member of the GGS and a member of the Prime Minister's cabinet.

For bills, the government is not obliged to retain the text adopted by the Council of State. In any event, the parliament will modify the bill. For decrees in the Council of State, the government is obliged to retain its initial draft or the text adopted by the Council of State. No new text is allowed.

If the government decides not to follow the Council of State's advice on the conformity of a bill with the Constitution or international treaties, and if parliament maintains the text, the Constitutional Council may declare that the voted law does not conform to the Constitution. If the government decides not to follow the advice of the Council of State on a decree, then the Council may, in case of litigation, cancel the decree in the Supreme Administrative Court.

Parliamentary discussions

The text adopted by the Prime Minister's cabinet and the GGS is signed by the Prime Minister and countersigned by the ministers who will have a role to play in its implementation. Decrees in the Council of Ministers are also reviewed by this council and signed by the President of the Republic.

The role of the ministry is, together with the GGS, to follow the text in its itinerary of countersignatures of ministers, from the ministry to the office of the Prime Minister. Frequently, the GGS organises a simultaneous signature process.

A bill is adopted in the Council of Ministers. Subsequently the parliamentary process begins. The role of the ministry is to assist the minister and his cabinet in the parliamentary process from a technical point of view.

The ministry prepares the files requested by the cabinet and especially by the member in charge of relations with parliament (the parliamentary assistant). In parliamentary discussions, the cabinet principally assists the minister. However, experts in the departments of the ministry also have to assist the minister and his cabinet, and for this purpose they stand near the assembly. The ministry must prepare

answers to the questions asked by members of parliament on the bill under discussion. They must react quickly to any proposed amendments to the bill.

The GGS is in charge of monitoring parliamentary shuttles.

2 Policy Implementation, Monitoring and Evaluation

The adoption of decrees and bills is not the end of the ministry's role. Monitoring the implementation of measures and evaluating their effectiveness are key tasks for the ministry. It must check that decisions are enforced and lessons learned from the evaluation of the conditions of implementation.

Each ministry must be involved. The Ministry of Finance generally plays a lead role. In France, a ministry is in charge of state reform. This ministry reports to the Prime Minister or is linked with either the Ministry of Civil Service or the Ministry of the Budget.

The Ministry in charge of State Reform works out the state reform policy proposed to the Prime Minister, assists ministries in the elaboration of their policy in this area, and co-ordinates reform measures taken by the ministries. It ensures that their strategies are linked to one another.

The methodology of monitoring and evaluation may sometimes be sophisticated, and this constitutes a risk. An important ministry, with many civil servants and experts, may use such a methodology but not all ministries. However, there is no need to use such complicated methods in all ministries. The complexity of the method must not discourage a ministry from putting in place management control and evaluation. The most important goal is to introduce a management culture in the administration and to change mentalities. This requires, first of all, time to convince civil servants and, secondly, time to develop adequate tools.

2.1 Implementation and Monitoring

Implementation is the responsibility of each ministry, but the whole government must demonstrate political will, set the framework and follow the process.

Regulations required for the implementation of laws

Many laws do not legally apply without a decree. If the decree is delayed, the law does not apply. The public cannot understand why a law voted by parliament does not apply. The minister, with the assistance of the GGS, must monitor the elaboration of decrees that are required for the implementation of the law. The best way is to prepare the bill and the decree(s) simultaneously. At least the agenda for preparation of the decree(s) should be ready when the bill is voted.

Services in charge of monitoring implementation

All departments in a ministry have to monitor the implementation of the measures that they have prepared.

It may be convenient to give to an office the specific task of co-ordinating the monitoring of implementation of the main policies of the ministry. The office may report to the general secretariat of the ministry, if any, or to the department in charge of management problems. The inspectorate of the ministry may also play a role in this domain and in evaluation. It has a specific function across ministries.

The task of monitoring the implementation of measures is easier when the ministry has local services in the whole country. In France the prefect, who is the head of the civil administration in regions and departments, is in charge of following the implementation of texts and measures of all ministers, except for the Ministers of Defence, Education and Treasury. The prefect reports regularly to the Minister of Interior and other ministers. The ministries may ask him any question.

Methods

The use of modern management methods is increasing in the French administration. Among them are: strategic monitoring of public policies; development of management control; development of reporting (Ministerial Activity Reports – RAM). The targets are productivity and the quality of service to users.

By setting up a new accountancy that allows for the analysis of costs in the framework of programmes, the finance bill reform is facilitating management control.

Management control may be defined, especially in the public area, as a monitoring system carried out in a service to improve productivity within the framework set by a previous strategic approach. This monitoring tool may be used for the evaluation of public policies.

Management control requires programmes, objectives, indicators, a control panel and performance reports. The management control body must consistently choose activity sectors, reliable long-term indicators, and objectives and programmes that are precisely defined.

The fact that the introduction of management control gives rise to fears and reluctance in the administration has to be accepted. Business management methods do not correspond to the civil service mentality. To be successful, this reform requires explanations and pedagogy. The definition of objectives and programmes must be carried out with the personnel. For civil servants, this reform must be described as a new opportunity to perform their functions rather than as a criticism of their values.

In France, three-year management control development programmes have been established. They are being carried out in the framework of modernisation programmes that include a reorganisation of services, reform of job management, and the development of new information and communication technologies.

Recently, the Ministry of Defence adopted a complete modernisation programme that includes an increasing role for the army chief of staff, a new pay system, the reorganisation of the central administration, and a new purchasing policy.

2.2 Evaluation

General evaluation process

In 1998, the government reorganised the public policy evaluation system.

The National Evaluation Council plays a key role in the evaluation process. Its membership comprises representatives of the Council of State, the Court of Accounts, and the Economic and Social Council, mayors and other representatives of local councils, and experts in evaluation, economics, and social and administrative sciences. The National Evaluation Council proposes to the Prime Minister an annual programme of evaluation. It gives advice to ministries on the evaluations that they undertake.

A law has created the Parliamentary Public Policy Evaluation Agency, consisting of members of both chambers of parliament.

A mission of investigation and control gathers together members of parliament and members of the Court of Accounts to scrutinize cases submitted by parliament.

The ministry proposes to the minister certain policies and subjects for an evaluation, with terms of reference. With the assistance of the National Evaluation Council, the Prime Minister makes the final choice of projects. The evaluation applies to programme contracts signed between the government and the regions. These contracts are the frameworks for the main public investments.

Role of the ministry

The ministry must propose to the minister specific matters for evaluation, indicating the objectives and indicators in the framework drawn up by the government, the minister and bodies involved in state reform.

The minister must explain, with the assistance of the ministry's staff, why the ministry requires an evaluation and why it is in the interest of the civil service to improve results and productivity.

3 Organisation and Management of the Ministry

The organisation of the ministry is very important in terms of management issues.

3.1 Structures of Ministries

The President of the Republic and the Prime Minister decide on the structure of the government. A decree of the Prime Minister governs the structure of each ministry. As the organisation of a ministry has an importance for the whole government, the minister's room for manoeuvre in this regard is small.

The organisation of each ministry is structured around a cabinet, the members of which are chosen by the minister, and the central administration offices.

Some ministers have one or several acting ministers or secretaries of state to assist them. This is decided, for political or administrative reasons, when the government is appointed. Co-ordination between the minister and acting ministers is very important to ensure the consistency of government policy. The minister who manages the team must therefore meet regularly with his colleagues, and probably the best solution is to have partly common cabinets. Organised in this way, the director of the acting minister's cabinet is a member of the minister's cabinet and attends his cabinet meetings.

The minister's cabinet is made up of people who have been personally chosen by the minister. The number of members in the cabinet depends on the ministry; it may vary from 10 to at least 50 in the Prime Minister's cabinet. The cabinet staff leave their positions when the minister loses his office. The cabinet is led by a director, often assisted by a deputy, and includes political advisors, who are politically linked to the minister, and other members, referred to as technical advisors. The technical advisors have the same political tendency as the minister but are mainly chosen for their technical profile and come mainly from the senior civil service. The cabinet also includes a cabinet head, who is in charge of the agenda and organisational problems, a parliamentary attaché in charge of the minister's relations with parliament and with the minister's electoral constituency, and a press attaché. Generally, the minister must consult with the Prime Minister, or with the Prime Minister's director of cabinet, on the choice of his director of cabinet, as he attends the Prime Minister's cabinet meetings.

The cabinet assists the minister in the management of the ministry from a political point of view. The cabinet passes on the minister's directives and monitors the activity of the administrative services, ensuring its political consistency.

The role played by ministerial cabinets is often criticized in France as being too powerful. It is clear that the cabinet must not be a second administration, thereby discouraging the offices of the ministry. On the other hand, if the minister is politically confident in his cabinet, he may decide to retain the heads of the ministry's administration, even if they had been appointed by a minister of another political tendency. The cabinets can prevent the creation of a spoils system. In France, when there is a change in the parliamentary majority or in the government, the directors of central offices in the ministry are not obliged to resign, and the chiefs of sub-departments may remain in their positions for a long time. The situation in other countries, where all of the administrative staff must resign when a new minister takes office, is to be avoided. A minister of a European country, attending an EU meeting in Brussels, was not familiar with any file because the administrative staff of the ministry had left, and no member of his political team knew the issues under discussion at the meeting.

The cabinet plays a specific role in terms of communication and the relations with parliament and political parties. It is responsible for answering parliamentary questions.

However, the cabinet must not be the only responsible body. To maintain continuity and manage the files, the ministry's structure must include services in charge of these problems, under the political control of the cabinet.

Some ministries have a secretary general (for a long time, all ministries had one). Traditionally, there is a secretary general in the Ministry of Foreign Affairs, who co-ordinates all of the central offices. In the Ministry of Interior, the secretary general is in charge of the co-ordination of administrative and financial services. The relationship between the director of the cabinet and the secretary general is a central point. The secretary general must respect the political line given by the cabinet director, and the director must avoid managing the services instead of the secretary general. A permanent arbitration between the two by the minister himself is not the right solution.

Some services are directly answerable to the minister and his cabinet, such as a general inspectorate and a communications service.

The other services are central administrations. Ministerial services consist of general directorates or departments and sometimes decentralised services. Appointment to the posts of director general and director is made by presidential decree in the Council of Ministers. The number of departments in a ministry must not be too high. It is difficult for the secretary general or the director of the cabinet to manage more than ten departments. The best number is probably around five.

Departments are organised with a pyramid structure. Each department consists of several sub-departments, and the sub-departments consist of offices, which are the basic units of French ministries. Vertical departments are organised according to subject and correspond to the specific areas of the ministry's work. Horizontal departments deal with general subjects, such as human resources management or finance.

One of the first acts of the minister on taking office is to delegate his signature. This is a very important decision, as the officials who are given the right to sign on behalf of the minister will be able to take binding ministerial decisions. Traditionally, all of these delegations lapse when the minister leaves office. The arrival of a new minister thus has generated a huge consumption of paper by the *Journal Officiel*. As a result, a new decree issued in 2005 stipulates that the delegations of signature given to officials in the services by a minister remain in force until the new minister decides to terminate them.

Ministers may delegate by decree the signing of certain acts to members of their cabinet and central administration officials, in accordance with the conditions set down by a Prime Minister's decree. The right to countersign decrees of the President of the Republic or the Prime Minister may not be delegated. The administrative judge may nullify an act on the grounds of an illegality in its signing.

The minister must establish a confident relationship with his cabinet and with the heads of central administrative departments. He must have regular meetings with the cabinet, for instance monthly, not only with the cabinet director. He must also receive personally the senior officials of departments.

3.2 *Structures and Management*

The structures of ministries differ from one ministry to another. The best organisation is the one that is the most appropriate for the problems to be solved and for the people working in the ministry at the time.

On taking up his post, the minister must review the requirements, strengths and weaknesses, as well as the needs expressed by the staff. When elaborating the programme, a discussion on the organisation, involving all of the personnel, is very useful.

The minister must take care to listen to the managers in the ministry, even if he takes the advice of an external body.

In most ministries, the organisation has to be both horizontal — to deal with the issues to which the ministry is specifically dedicated — and vertical — to follow management issues and work with interministerial bodies.

Once the structure has been set up, the minister can choose the right people for the right places at the right time.