

An Analysis: Relevant Regulations for the Reorganization of the Central Government of Taiwan

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On Jan. 1, 2012, the restructuring of central government agencies will get under way. The major laws pertaining to government restructuring have already been promulgated and enacted including the Basic Organic Act of Central Administrative Agencies, the Organic Act of the Executive Yuan, the Provisional Act for Adjustment of Functions and Organizations of the Executive Yuan and the Central Government Agency Personnel Quota Act. If we factor in the effects from the recent creation of five special municipalities, then the Local Government Act must also be amended correspondingly.

None of the brochures on government streamlining published by the Ma government seem to take into account the challenges of globalization that Taiwan faces. Instead, they only address the issue for the sake of restructuring and its corresponding formalization. To put it simply, although Article 3, Paragraphs 3 and 4, of the Constitution already provide greater leeway for responding to globalization, the Ma government's main efforts to sell "government restructuring" to the public are limited to create a less wasteful and more efficient government, without ever replacing the concept of government with "governance."

Based on Ma government's draft proposals, the current 41 agencies under the Executive Yuan, including the existing 37 cabinet-level agencies plus their field agencies will be streamlined to 29 cabinet-level organizations. However, streamlining or merging agencies must be done in line with the government's ideas of how the government should be run. National Parks, for instance, originally fell under the jurisdiction of the Ministry of the

Interior's Construction and Planning Agency. The guiding principle for National Parks is therefore still construction. But if National Parks will be put under the future Environmental Resources Ministry, then policy formulation will be different based on the premise of environmental protection and sustainable development. To elaborate further, if the Construction and Planning Agency belongs to the Ministry of the Interior, then the agency will have to go along with the government's policy on building social housing. But if the Construction and Planning Agency is established under the future Ministry of Transportation and Construction, then construction will be closely linked to transportation and no longer be subject to the Ministry of the Interior's policies. Therefore, while the adjustment of executive agencies is closely related to the thinking of the respective government, the two may not necessarily be consistent with each other in the restructuring process.

Another problem is that it is meaningless to decide the overall number of cabinet agencies merely formally, because so far not a single theory in public administration has established about what number of cabinet agencies is the most adequate for a country. Public perception might hold that fewer cabinet agencies could improve efficiency. But in theory the two are not necessarily mutually related. Yet politicians still promote the means and effects of government restructuring based on such arguments, undoubtedly it is derived from that they hope to gain support by appealing to populist sentiment.

In fact, from the perspective of administrative

organic law, greater importance is attached to the number of independent agencies that are set up. This is the case because if there are many independent agencies, the Premier's involvement in second-tier agencies will naturally diminish. On the other hand, the fewer independent agencies, the greater are the powers of the Premier. However, following the legal amendments, the only independent agencies to remain in the future are the Central Election Commission, the National Communication Commission (NCC) and the Fair Trade Commission. Nevertheless, what is difficult to comprehend is why in the end these three were picked, whereas the Financial Supervisory Commission (FSC) and the Central Bank of Republic of China were excluded. Judging from the current system, the operating model of the two latter ones comes somewhat closer to that of independent agencies. After these two bodies have been stripped of their independent status, the Premier will be more likely to interfere with monetary policy and financial supervision.

The new Maritime Affairs Commission will actually be set up on the basis of the existing Coast Guard Administration, yet with much effort it has been transformed into a commission in a bid to integrate maritime policy. In other words, the new commission should in theory be an agency that engages in political management, yet what it does in reality is coastal and maritime patrol. How can it be expected to assume the task of coordinating and integrating maritime policy? And then there's the Ministry of Land and Resources, which will virtually merge third-tier

agencies under several cabinet agencies including the Ministry of the Interior, the Environmental Protection Administration (EPA), the Council of Agriculture, and the Ministry of Economic Affairs. In the future, people from different backgrounds will form the new team, which after the merger will internally be the most complicated one. Consequently, the minister at the helm of the future ministry must free himself from EPA thinking; otherwise, he will find it very difficult to control this ministry.

Besides, actually, carrying out restructuring the government will not only adjust or transform functions and operations given that the Central Government Agency Personnel Quota Act will also have the most far-reaching impact. The personnel quota act limits to 173,000 people the quota of civil servants, not counting certain groups of civil service employees (including political vice ministers, contract employees, police officers, technical workers, staff at the Judicial Yuan and the Ministry of Justice) and public school and military staff. Currently, about 185,000 to 188,000 civil servants are serving in central government agencies, meaning the quota has been exceeded by more than 10,000 people. But judging from the Kuomintang's (KMT) tentative approach, the personnel quota act will only be implemented selectively on a trial basis. The KMT is unlikely to opt for a once and for all approach to reform given the chaos caused by the recent creation of five special municipalities and the upcoming presidential election in 2012. This means that we

can only use the quota to control civil servant numbers. Unless we adopt a dual track system like Japan (with mutually independent civil service systems for the central government and the local governments), the only other means of controlling civil servant numbers aside from counting heads is personnel costs. In other words, because Taiwan's government restructuring lacks such a regulatory system, government streamlining might eventually turn into mere lip service.

As far as relations between the central and local governments are concerned, the effects from the creation of the five special municipalities related to personnel management are first of all mergers of administrative districts. So far the Legislative Yuan has not yet adopted a legal system for district organizations due to opinions are still divided as to how districts should be merged. In Sinbei City (former Taipei County), for example, the question is how its 29 townships and cities should be merged, actually not just merged. For Banqiao City it would be better if it was split up, but the decision whether to merge or split up will affect the respective organization's operations. Moreover, Article 58 of the Local Government Act adopts a transitional arrangement for the roles of chief administrators of (newly created) districts. The mayors (and councilors) of townships and cities who were in office before the status change will be retained for a four-year term of office, serving as chief administrators and administrative affairs advisors. Unless this chaotic and confused system is amended in the longer term, controversy is bound to be endless. 