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PUBLIC ADMINISTRATION REFORMS  
IN EASTERN EUROPEAN UNION  
MEMBER STATES

POST-ACCESSION CONVERGENCE  
AND DIVERGENCE

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## Foreword

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The idea to design and prepare a scientific monograph on public administration reforms (PAR) and public governance, particularly dedicated to the Eastern European countries and their development after accession to the European Union (EU), was born in September 2015 in Vilnius. Namely, Mykolas Romeris University organized a conference on this topic in order to celebrate 25<sup>th</sup> anniversary of Lithuania's Restoration of Independence. During the respective conference in-depth discussions have been led acknowledging the need to scientifically analyze this field by marking key convergent characteristics of countries involved, particularly taking into account that there is hardly any available literature in English to mark the progress in this region respectively. At that time, we have also developed a notion of the EEU-11, i.e. a region of post-communist and post-socialist EU Member States (See more in Part C).

The book hence represents an effort to conceptualize the content and dimensions of the Eastern European (EE) region post-communist / socialist transformation upon the role and results of PAR as a "success story". The general research question that we addressed has been based on an assumption of radical change in public governance in respective countries due to their Europeanization. Simultaneously, we have envisaged that: A) PAR are facing so called implementation gap in general, B) there are crucial differences in individual (groups of) countries (e.g. among Baltic countries, Visegrad (V4) or former Austrian-Hungarian or Yugoslavian countries, etc.). Especially with regard to governance convergence towards the EU standards and among each other as well as different trajectories of divergence as the homogenizing effects of communism have faded and construct a more relevant and contemporary theory of PAR that could replace the outdated notion of one-size-fits-all post-communist / EE transformation theory.

Our aims by developing and publishing this monograph are therefore:

- to provide comparative analysis of PAR in the 11 new EU member states (joined in 2004, 2007 and 2013) in the period of 1990-2016 based on scientific research and harmonized profile enabling optimal objective comparisons;

- to enhance interdisciplinary public administration (PA) related research and its dissemination;
- to analyze selected subtopics within PAR in terms of main aims, prioritized activities and level of realization, in particular:
  - public governance models and trends in political-administrative decision-making, and accountability of PA incorporated;
  - functions and organization of public administration (in the broadest sense), local self-government, delegation of authority (e.g. regulatory agencies), public-private partnerships and similar included;
  - civil service system based on integrity and ethics;
  - work processes with special emphasis on administrative procedures modernization and transparency in terms of good administration;
- to scientifically, comparatively and empirically define key differences and characteristic of the new EU member states, i.e. the EEU-11, addressing among others non/compliance to Western European models and practices and ongoing post-socialist processes;
- to detect main con- and divergences among individual countries in this region;
- to transfer current research results through a comprehensive literature review of academic publications in (only or mainly) native languages of the EEU-11;
- to enable knowledge transfer from theory to practice in the region to policy makers;
- to establish and enhance the role of publishers as key developers of PA studies at the European level.

The initiative has been accepted by a joint venture of two publishing houses, namely University of Ljubljana, Faculty of Administration, and Mykolas Romeris University. Such a co-operation represents one of the aims that we strived for, in terms of a more close collaboration between the countries in our region to enable exchange of best practices, and thus to learn from each other.

We have invited distinguished national scholars in the field to prepare a profile of their country in this respect, following a joint outline. Unfortunately-

ly, Estonian and Czech colleagues could not respond in due time but we have managed to gather nine national reports that we believe serve the purpose. All contributions have been subjected to a full review, conducted by four reviewers of different expertise (political science, law, economics, management), aiming to cover as much disciplinary specifics as possible but simultaneously focus on interdisciplinary holistic study.

Finally, in editors' capacity, we would especially like to thank to all experts involved in this initiative for their collaboration, efforts and patience within the coordination process. Besides the authors drafting the country profiles, special thanks go to the reviewers, Prof. dr. Harald Koht, and assoc. prof. dr. Aleksander Aristovnik, assoc. prof. dr. Ieva Deviatnikovaitė and assoc. prof. dr. Mirko Pečarič. Moreover, we would like to acknowledge contribution of both publishing houses and their representatives for their professional support.

Ljubljana, Vilnius, January 2017

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## 1. Public Administration Reforms in the EEU – Introduction

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*Michiel S. de Vries*

Political institutions can change overnight. Illustrative is the fall of the Berlin wall in November 1989, by which the people from then called Eastern Germany were offered the exit option to escape from the communist regime. Within a couple of years, the political regime in the whole region of Central Europe changed from belonging to the Communist bloc towards moving to the Western bloc in which democracy and the free market ideology became dominant.

However, the governmental, administrative and societal institutions that until then influenced the norms, beliefs and actions of individuals and organizations still had to be reformed and this process continues until today. This includes creation of new governance models, organization of the public administration, reform of administrative procedures, development of a civil service, process of decentralization and agencification. The process pointed to several interesting issues, for instance, that what is normally seen as most difficult, changing the constitution proved to be the easiest part of the whole reform process. One would have expected that other reforms would evolve as smoothly because a huge amount of money was released by the affluent world (IMF, World Bank, EU etc.) to provide international technical assistance in order to make the reforms work, and the new Western partners offered an interesting incentive that if the reforms would work out and go in the direction desired by these countries and international organizations, the Central European countries could become member of the European Union, which was judged at the time to be very profitable. The EU also provided a strategic goal for the needed reforms, the model of the European Administrative Space (EAS). The idea of EAS was launched when the Central European countries applied for EU membership in the 1990s. One of the criteria for the potential Member States was that they should have sufficient national administrative capacities to comply with the *acquis* (Trondal & Peters, 2013: 303, see also Trondal, J., & Jeppesen, L., 2006).

It was in the 1980s and 1990s that institutional standards to promote this idea emerged. Scholars point to the advisory role of EIPA and SIGMA. Others see the catalytic effect of the actual emergence of local twinning projects, cross-border regions, and the emergence of the Schengen area, the area without borders within the European Union, on the need for effective enforcement of the Union Law through the EAS (Beck, 2015). Still others point to the decisive impact of the Copenhagen Criteria of 1993, defining whether a country is eligible to join the European Union; the Madrid Treaty, introducing the need for adjustment of administrative and judicial structures so as to be able to transpose the EU Law and effectively implement it; the Luxembourg Treaty of 1997, pointing to the need for strengthening institutions; and the Helsinki Treaty of 1999, with the explicit obligation of candidate countries to share the values and objectives of the European Union as set out in the treaties (Torma, 2011). The standard-setting organization at that moment, SIGMA, rightly pointed out in 1998: “[I]t is clear that the EAS is now beginning to emerge” (SIGMA 1998: 15).

At the time, the “future” accession provided an incentive for a huge number of reforms in the CEE-countries. The expanding *acquis*, with its requirements limiting institutional discretion and thus having a profound impact on national administrative styles and structures, made sure that not only the CEE countries, but also the existing Member States were affected (Knill, 2001: 214). This influence varied over different policies, dependent on the basic pattern by which the European policies exerted influence on national administrative styles and structures, and according to the extent to which such needed compliance was in line with national administrations’ beliefs and preferences (Knill, 2001: 227). However, overall, an Europeanization of national administrations was said to have taken place, making Matei and Matei conclude in 2008: It “appears as the closure for a large process that implies convergence, Europeanization and administrative dynamics” (2008: 46).

Also theoretically one would expect a smooth and rapidly progressing process, as institutions are seen as endogenous, that is, that “their form and their functioning depend on the conditions under which they emerge and endure” (Douglas North, 1980, 1990, Przeworski, 2004: 527). Since the conditions had changed dramatically in Central Europe, there was a necessity that administrative and societal institutions would adapt to the new situation

swiftly.

From a rationalist and functionalist perspective, availability of a strategic goal – the model of the EAS and the necessity to reform – needed adaptation to the new conditions, desirability to reform – the incentive to become the EU members, opportunities created through the availability of resources and technical assistance to make the reform happen international resources released to make it feasible, and technical assistance offered, all result in the same expectation, namely that the institutional structure existing in all Central European countries in all its dimensions would quickly change and converge to the Western model.

However, this rationalist and functionalist approach neglects the limitations and inhibitors to such institutional reforms. The best-known inhibitor is posed by the so-called path-dependences. “Institutions are the rules of the game in a society or, more formally, are the humanly devised constraints that shape human interaction” (North, 1990: 3) and often have a life of their own in that it is difficult, if not impossible, to initiate radical changes in the institution or to eliminate it. As Mahoney (2000: 507) argued, “path dependence characterizes specifically those historical sequences in which contingent events set into motion institutional patterns or event chains that have deterministic properties“. When more and complementary institutions are set up, as is usual in societies, it becomes costly to radically change them or to abandon them because changing one institution can have serious implications for other institutions. Often, there are “configurations of complementary institutions in which the performance of each is affected by the existence of others” (cf. de Vries, 2016: 47; Pierson, 2000: 78). Being subject to a communist regime for 45 years had created a system of such complementary institutions in Central Europe and a legacy that would be easily overcome by the reforms. In Central Europe, such path dependences were strengthened by factors at the macro-, meso- and micro-level. At the micro-level the legacy remained visible because individual public administrators who were already in function in the previous regime with all their norms, beliefs and values and inclinations to act in ways acquired in the previous regime, were given the opportunity to stay in function under the new regime, resulting in the conservation of those norms, values and beliefs within the administrative apparatus. At the meso-level, path dependencies are seen in the legalistic traditions being

still dominant in many Central European countries. One of the reasons for this is that, although the EAS requested more efficiency, it also promoted the conservation of that already existing legalism through the bureaucratic procedures it imposed by requiring the Central European countries to adopt the *acquis communautaire* of the EU.

At the macro-level, institutional arrangements at the national level, are not just decided upon and changed because of the emergence of a new regime and on rationalist and functionalist reasoning, but remain subjected to the basics of politics, that is, power and interests. People in power, irrespective of the regime-type, will always be hesitant to renounce that power and will be irrespective of the regime-type have a keen eye after their own interests. This conforms to the theory of Hall and Taylor (1996: 938) and Steinmo (1992) who explain institutional resilience by the actions of the coalitions in power, trying to preserve their prerogatives and avoid reforms that would diminish their power or would counter their interests. This predominance of power and interests is seen in processes of decentralization; processes to change the position of national banks, for instance, processes to increase transparency, etc. (cf. de Vries, 2000).

The above results question what has really happened to the administrative institutions in Central Europe during its transformation and how public administrative reforms are perceived, conceptualized and implemented, and if this could result in additions to the currently dominant theories about public administration reform. It is not a question that can be answered through a general, rather abstract overview of the developments, but needs in-depth analyses pointing out the communalities and differences in the approaches in different countries. That is the topic of this book and is being investigated for the Central European countries.

Vainius Smalskys, Andrius Stasiukynas, Jurgita Domeikienė, Mantas Bileišis investigate the reforms in *Lithuania* and point out that such reforms in Lithuania were challenging for the governments trying, on the one hand, to be the darling of the EU in complying swiftly to its requirements, but on the other hand losing sight of the interests of its citizens, and hardly reforming its administration in so far as it is not required by the EU.

Maris Pukis, Inesa Voroncuka and Olga Starineca argue for *Latvia* that the reforms were accompanied by huge conflicts between the stakeholders, and again that as far as the EU legislation was concerned the reforms went

rather smoothly, but regarding the domestic reforms, conflicts of interest and political considerations were dominant. This resulted in reforms that at times went back and forth, dependent on the distribution of power and the discretion allowed to the public administration.

Mariusz W. Sienkiewicz and Stanisław Michałowski investigate the reforms that have occurred in *Poland*, and note that all these reforms failed to meet the citizens' interests, and that the achievement of all objectives of the reforms can be disputed.

Juraj Nemeč, Beata Mikusová Mericková, Maria Murray Svidronová, and Peter Písař set forth the reforms in *Slovakia*, and although certain reforms were effective, the overall system is still overpoliticized and the reforms uncontrolled, not modeled according to a rational design, and having hardly any benefits for the population.

György Gajdusček, Tamás M. Horváth and Károly Jugovits argue for *Hungary* by stating that the reforms lacked a coherent strategic vision and political support, and emerged out of contradictory reform models as Poland went back and forth dependent on the dominant political coalition in power.

Polonca Kovač and Primož Pevcin argue for *Slovenia* by stating that although there are radical changes of previous governance approaches visible due to internal incentives and the Europeanization process there always have been and still are implementation gaps, and that it all depends on political consensus rather than technical and operational measures to improve on this.

For *Croatia*, that although in the light of the EU membership many reforms were initiated, as analyzed by Ivan Koprić, the size of its public sector, history, administrative tradition, and other administrative particularities in combination with the existence of a number of influential trade unions who follow the internal bureaucratic resistance to reforms, inhibited in-depth public administration reforms.

Călin Emilian Hînțea and Tudor Cristian Țiclău highlight the reforms in *Romania*, and observe that despite, or perhaps due to all the reforms that have been initiated during the last 25 years and are still ongoing in the field of legislation, intergovernmental relations, human resource management and financial management, the predictability and coherence of the civil service is still severely lacking, the managerial performance has not improved, that one cannot yet speak of a rational use of public resources, and finally, that the popu-

lation did not profit from the reforms.

Tatyana Tomova and Simeon Petrov present the reforms in *Bulgaria* that were hardly following a coherent strategic plan. Instead, they point out that Bulgaria witnesses a strong fragmentation in the field of strategic planning and a huge number of strategic documents. What strategy to follow seems to depend on the international and supranational commitments of the State, which are a result of financial dependence (International Monetary Fund), donor programs (World Bank, EU), or the voluntary inclusion in general political and normative space (EU).

All this implies there was no common conceptual model underlying the reforms that took place in Central Europe. Reforms were initiated only if they were really needed based on external pressure, but not out of a coherent reform model, such as New Public Management, New Public Governance, Value Based Governance, New Public Administration, and the like. Certainly, such models were referred to with the purpose to give the intended reforms some credibility and legitimacy, but they did not present the basis out of which one could understand the outcomes of the reforms.

From the perspective of public administration as a discipline, the findings that reforms in Central Europe were not based thereon and also were hardly done on behalf of the interests of the population, but rather on the interests of administrators and politicians, is on the one hand weird, but at the same time very interesting. It makes one inquisitive in the answer to the question whether there is any convergence to the Western model, whether all the reforms are just temporary instead of structural and whether the return to the central state model as is happening in Hungary could also be possible in other Central European countries if the EU fails to deliver on its promises. As all the authors in this book argue, most of the reforms in Central Europe were conducted seemingly reluctantly. The consequence is that all these reforms are far from stable and structural and can easily be reversed if their payoff fails to materialize (cf. Sobis & De Vries, 2014). This is already seen in some way in Hungary and Poland, but could also become reality in other Central European states.

This makes the investigation of institutional change and its driving forces not only interesting from a scholarly perspective, but also from the perspective of a concerned citizen, who was pleased to see the EU expand, but has to reconsider the dangers thereof possibly emerging in the near future.

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## 2. Public Administration Reforms in Eastern Europe: Naïve Cultural Following, Hesitant Europeanization, or Search for Genuine Changes?

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*Ivan Koprić*

### 2.1. Introduction

Administrative reform is a common issue in administrative and political science. Comparative analyses of administrative reforms seem to be an important source of information necessary for experiential learning. Although national specificities are unavoidable, international comparison should follow a standardized analytical path in order to produce and offer useful knowledge.

Comparative approach to administrative reform in the former socialist countries of Eastern Europe (i.e. Central, East, and South-East Europe) has been running against several problems of theoretical significance. The first one is a general problem with comparative approach in public administration studies based on the complexity of contemporary public administrations, different goals of their change, various possible developmental paths, variations of institutional and other arrangements in providing public services in different countries, etc. The second problem arises from defining administrative reform and classifying the particular national reform paths into a smaller number of administrative reform types to make them comparable with those in other countries. The third problem lies in identifying what transition means in different contexts, and what it means in the specific case of Eastern European countries whose recent history was marked by the socialist type of social experiment because all of them are (still) seen as the transition countries.

Eastern European transition countries have chosen the European Union accession path. Although their accession tracks have not been the same, and the harmonization with European standards has not been performed at the same time and in the same manner, there is a body of administrative institutions and standards commonly accepted by various countries in order to boost their administrative capacity necessary for the EU accession. After formally joining the EU, these countries have continued to converge, to a degree,

on the simple basis that their everyday functioning takes place within the European Administrative Space (See EAS in: Koprić, 2014; 2012 for more detail). This type of administrative convergence serves as a mitigating factor of comparative analysis as well as a general endeavor of these countries' transition towards the model of democratic liberal state.

## 2.2. Catching and Analyzing Administrative Reforms

Choosing the monumental multi-layered project of transforming previous single-party system to democratic multi-party system, with a privatization of former state or quasi-social ownership, and design of free market economy the transition countries were brought to the emerging task of deep reform of state machinery. Further tasks, such as the accession to the Council of Europe, NATO, the European Union, and some other European and international organizations additionally stressed the urgency of public administration reform. However, there are limited capacities of society to accept changes, logic of path dependency, bureaucratic resistances, and all other sorts of complications accompanying reform efforts. Because of these counterforces, administrative reforms can be slow, formal, and shallow. Political elites faced with multiple efficacy pressures tend to proclaim almost every single legislative change to be an administrative reform.

This opens a problem of defining the administrative reform. Is there only one, continuous and constant reform or many of them? Is every change a reform, regardless of its effects? Which effects count, short-term and easily visible outputs or long-term and barely observable deep cultural impacts? Does the term administrative reform convey only positive connotations or can it just as easily acquire a negative meaning? Who is competent to proclaim which reform consequences and impacts are positive or negative, i.e. who evaluates their results and proclaims their success?

These are not new concerns and considerations. As Caiden pointed out, administrative reform is "the artificial inducement of administrative transformation against resistance" (Caiden, 1969/2009: 1). Differentiating between societal changers, societal revolutionaries, and societal reformers (*ibid.*, p. 5) he also gave a good indication for discernment of the three types of changes in public administrations (and societies), according to their width, depth, and intensity.

Only deeper administrative changes that bring about more significant institutional innovations into the administrative system of a country may be called reforms. They usually trigger resistance, because of their impacts on the power structure. Other smaller adaptations of administrative functioning, new laws and regulations, periodic reorganizations of public administrative bodies, changes in the civil service system, and other incremental administrative modifications can be of some importance, at least on a daily basis. These incremental changes are the grains of sand that sediment on the much larger beaches of administrative landscape.

The change of power structure is not the only political dimension of administrative reforms. They are designed and managed on the basis of specific value orientations distilled through the political processes participated by political actors, citizens and general public. Moreover, their commencement and pace are decided, directed and influenced by the political bodies and processes, although with a significant influence of administrative theory, doctrines, and professionals. That is why the administrative reform is also considered as “a political process designed to adjust the relationships between a bureaucracy and other elements in a society, or within bureaucracy itself” (Montgomery, 1967: 1).

Administrative changes can be defined as an administrative reform only if, as pointed out by Caiden, they end in certain improvements of a public administration. Value choice made within the decision-making process about an administrative reform sets the base for its evaluation. Evaluation of the reform success depends on the assessment of a degree to which the reform contributes to the established goals and values that stand behind them. If it contributes in an acceptable manner and to an acceptable degree, the improvement necessary for each administrative reform has probably been achieved and the reform may be treated as a success.

However, the success and degree of a reform's efficacy may not be self-evident, even when the value base is known. Because of that, further, more precise and attentive evaluation exercise is needed. The success of an administrative reform may be evaluated by using the standards of evaluation studies, especially those rooted in the logic of program theory evaluation (Rogers et al., 2000; Sharpe, 2011). A complete and precise reconstruction of all the elements of reform program theory is, in the majority of cases, almost

impossible because they are vaguely defined, complicated and implemented in complex circumstances (comp. Rogers, 2008), and accompanied by only broadly defined and scarce success indicators. Such situations call for a profound and perspicacious theoretical analysis.

Establishing success or failure in achieving the official reform goals is but first analytical task. It is widely recognized that administrative reforms are frequently unsuccessful or, to be more optimistic, only moderately successful. Yet administrative changes do occur. Both success and failure are to be ascribed to politics and public administration. Knowing the reasons requires a huge effort put in the research of a complex machinery of the political and administrative systems in their relevant environments. Be that as it may, we can count not only on official results, but also on unintended side effects of administrative reforms, such as changing of administrative and political rhetoric, strengthening or weakening of the system legitimacy, introducing variety into routines of organizational life, etc. (March & Olsen, 1989; Czarniawska-Joerges, 1989). It seems important for administrative reform analysis to take into account not only the 'hard' and officially expected results, but also such soft, unexpected results, which may – at first glance – be treated as side effects, but whose role in long-term administrative changes is far from being unimportant.

It is well known that different countries answer similar challenges from complex domestic and international circumstances in a different manner. Hence, they choose different strategies of administrative reform.<sup>1</sup> According to Pollitt and Bouckaert (2001; 2003), there are four main reform strategies: to maintain, modernize, marketize, or minimize. Maintaining means to preserve and incrementally improve or upgrade the classical, Weberian model of public administration as a rational, well-organized mechanism with professionalism, impartiality, legality, and standardized bureaucratic procedures. Modernizing means to make more fundamental changes in structures and functioning of public administration (autonomous agencies, output budgeting, employment contracts, etc.). Marketization introduces market

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1 National public administrations are not unified actors who have one and only will, and who can choose only one pace of development. Real picture shows that in every governance system there are many actors with various reform concepts. The main reform orientation is, thus, an approximation derived from the reform mainstream.

principles and mechanisms in public administrations (internal market, competition, real prices, etc.). Minimizing is oriented towards shrinking the public sector by means of privatization, civil (voluntary) sector involvement, etc. This classification, which has become widely accepted, may serve as a useful tool for in-depth analysis of administrative reform in a country as well as for a comparative analysis of administrative reforms in a group of countries, Eastern Europe included.

### **2.3. Comparative Analysis of Contemporary Public Administrations and Their Reforms: Towards a Composite Theoretical Frame**

This monograph is devoted to improving understanding, research, and interpretations of public administration reforms in national settings as well as to comparing administrative reforms in those post-socialist Eastern European countries, which have become the European Union member states. The composite theoretical frame seems appropriate for such a great task. The system theory and organization theory as well as the neo-institutional theory may serve as the fundamentals of such frame. They warn and orient the analysis toward many important issues of contemporary administrative systems:

- Complexity, structure, and components of administrative systems, and their interdependencies,
- Changing tasks and purposes,
- Inclusion or exclusion of private and non-profit subjects, citizens, and small primary communities in the provision of public tasks,
- Opposite developmental processes, such as concentration and deconcentration, centralization and decentralization, widening public sector and privatization, strengthening and loosing hierarchical ties and means of internal administrative coordination, etc.,
- Adaptation of public administrations to dominant actors and influences from wider environment, and possibilities of national public administrations to influence broader processes,
- Consolidation and stabilization of administrative systems in their societal contexts, different ways of achieving institutional appropriateness, and paths of stabilization, etc.

Post-socialist transition can be considered a complex systemic trans-

formation, different from previous democratic transitions in South-Western Europe (Portugal, Spain), Latin America, and other parts of the world. The span of transition processes is the main difference, since previous transitions were oriented towards democratization, while post-socialist one is more complex and comprehensive, a systemic one, tackling almost every aspect of social life (Stark & Bruszt, 1998; Marčetić, 2005). The transition theory thus calls for an analysis of many relevant contextual variables of administrative reforms in Eastern European countries and puts a perspective to dynamic processes of overall transition. In addition, it warns about the importance of analyzing design, building, and development of new administrative, political and other societal institutions, which were not part of the previous, socialist regime.

The neo-institutional theory is a logical complement to the transition theory. It directs research to pay attention to values, expectations, regulations, and norms, phases in the institution building, critical junctures, convergence and divergence in the institutional development, path dependency, sedimentation in institutional development of public administration, etc. (Peters, 1999).

The first step in a more detailed design of the composite theoretical frame on previously established grounds should be focused on systemic and structural considerations. Contemporary public administrations, those in Eastern European countries included, are becoming more and more complex, and function in increasingly complex and dynamic environments. National public administrations are characterized by numerous new tasks, functions, goals, subjects, organizations, and arrangements with other sectors (private, civil, and non-formal). More and more complex knowledge, skills, abilities and competences of public servants are needed for acceptable (quality) level of public services delivered to citizens, businesses, communities, and society as a whole.

Apart from public administration, the other sectors, civil and private, are also involved in providing certain public services. Innovative and complex financial, legal, directing, supervising, communicating and coordinating ties and mechanisms have been established in such new public sectors. It might seem that public administration, captured in manifold relations with the private and civil sectors, loses its boundaries and its distinctive identity.

Public administration can be seen as a system composed of numerous administrative organizations. These organizations function as the elements of three main public administration subfields with various purposes, i.e. state (national) administration, territorial self-government, and public services. State administration, consisting mainly of classic administrative organizations like ministries, supports elected politicians in designing and implementing strategic and vital public policies. Territorial self-government at both local and regional level serves as a counter-balance to central state power, contributes to democracy standards, serves to local and regional communities, promotes and supports local and regional development, etc. Public services (services of general interest in the new European terms) provide services to citizens, users and consumers that are of public interest.<sup>2</sup>

For decades, general tasks of the whole public sector have been differentiating, broadening and cumulating. The development of modern, professional state administration began with simple, yet strategic tasks, such as to ensure the stability of state power and regulate basic societal processes. Subsequent differentiation has led to the tasks of providing services of public interest to users, preventing and helping people in cases of social and other risks (poverty, unemployment, illnesses, etc.), preserving natural and social environment, and ensuring infrastructure for economic and social development, etc.

The relations within and between these subfields are not constant. Increasing dynamics can be identified in that regard. Concentration or deconcentration can take place within state administration; centralization or decentralization are the processes that can occur in relations between the central state and administration, on one side, and local and regional governments, on the other. State administrations concentrate, under policy of the lean state, on their “core-businesses” (public policies, legal drafting, authoritative decision-making in concrete cases, inspections). Territorial self-government increasingly devotes to promoting and supporting sustainable local and regional development. Regionalization is a process that might harm either central or local powers or can upgrade the capacity of the whole public sector of a country. Liberalization and privatization are generally connected with providing services of general

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2 There are two groups of such services, services of general economic interest, with network industries as the main group, and non-economic services of general interest.



interest – the opposite processes can also be seen in certain cases. Privatization or etatization indicate tensions between the public and private sectors, etc.

All parts of public administration are involved in wider regional and global processes. Some of them are more formal, connected with formal integrations (for example, the European Union, NATO, the World Trade Organization, the OECD, etc.), while others are predominantly informal, like spreading influential administrative doctrines, neo-liberalism, or economic globalization. Public administrations are changing during such complex environmental challenges. The changes are connected with organization and structure, ways of functioning, legal regulation, personnel, relations with politics and citizens, and other significant dimensions.

In Europe, there is an especially significant influence of the European Union (EU) and, to a lesser degree, of the Council of Europe (CoE) and some other actors on administrative changes in the member states and accessing countries (comp. Kuhlmann & Wollmann, 2014; Himsworth, 2015; Koprić, 2014a). Such an influence is more intense with regard to transition countries than to consolidated Western democracies, because accession process is influenced by the EU conditionality.

Globally and regionally induced administrative changes do not mean simple adaptations of national bureaucracies to external pressures. Certain pieces of national administrative traditions can upgrade the new and constantly evolving European administrative standards. This is the case with the Ombudsman and open access to public sector information (Scandinavian tradition), traditional regulation of general administrative procedure (Austrian, i.e. Central European tradition), and other governance institutions. Building on that, one can speak about interdependencies of national administrative traditions and global, European and regional administrative standards and governance practices (comp. Koprić, 2012). Certainly, interdependencies can be observed in many other respects.

If everything mentioned is true in general, the notions of task environment complexity, environment complexity and technical (inter)dependence, borrowed from organizational theory, can help administrative science to perform a better and more productive analysis of such noticeable technical complexity in public administration of a country, objective complexity of its environment, including temporal complexity (Kiel & Seldon, 1998), and de-

pendence of public administration on complex environment (See, for example, Anderson, 1999; Dooley & Van de Ven, 1999; etc.).

However, one question still remains unresolved. Where does such task environment complexity stem from, having in mind public administrations? In an attempt to answer it, a notion of values, legitimate interests, norms, and expectations based on them should be mentioned again. An analysis of both instrumental and value rationalities (Dong, 2015) is necessary for understanding and interpreting administrative reforms. The contemporary world is characterized by previously unthinkable value complexity. Numerous grounds and causes are inbuilt in their complexity and almost constant differentiation, but their enumeration is not relevant to the present discussion. New values are developing constantly. Public administration has been changing, trying to respond to this great and frequently inconclusive value pressure.

Although values and expectations are many and diverse, they are, in sum, the integrating point of a governance system. Values are crystallized through political processes of interests and amalgamation of ideologies. Because public administration should gain overall legitimacy in its social milieu, it has to adapt to complex value orientations and expectations. If public administration respects a specific mixture of values in a specific field, citizens will tend to say that it functions in the public interest. Such importance of values gives us a focal point and basis for further analyses.

Be that what it may, contemporary public administration is not a simple value area with only one value dimension (Kickert, 2001). Citizens and the broader public expect public administration to respect and realize not less than five groups of values: political (democratic), legal, social, economic, and ecological. Values might compete with each other. In various sectors of public administration there are specific mixtures of relevant values. It is not the same situation in social work or the transport sector, finances or local self-government. Furthermore, in continental Europe the stress is traditionally on political, legal, and social values – there is the fatherland of Greek democracy and Roman law. Opposite, Anglo-Saxon zones are characterized by the stress on economic values and pragmatism. During the modern era, dominant value orientation has changed from political (democratic) and legal to social, economic, and ecological. Although such a general picture cannot be very

helpful in analyzing the value situation in a country at a particular time, it can warn us about possible value frame, its importance and effects.

The notion of values has been strongly stressed by the neo-institutional theory. Values, and expectations derived from values, are the elements of institutions. Institutions are social structures composed of interconnected and coherent expectations stabilized in time, in a certain social community, which regulate interpersonal relations or establish the authority of a community, and emerge through habitualization (repeated use), or a more direct and explicit set-up (comp. Pusić, 1989: 182-184). An institution is characterized by stability and steadiness, and tends to repeatedly orient, steer and channel human behavior. In other words, an institution has normative content and importance, and people do not accept changing their expectations if they are disappointed. In normative institutionalism (Peters, 1999) a task of identifying values, norms, regulations and other normative phenomena that frame the public sector is very important for the analysis of public institutions.

From older doctrines, such as cameralism in continental Europe, to the new public management, from the new public administration in the USA (the Minnowbrook perspective) to good governance, administrative doctrines have significantly influenced administrative development. An administrative doctrine is a system of ideas about desirable ways of operating and a set of prescriptions about good practices grounded on dominant values and systematized experiences, comprising standards with regard to organization, functioning, regulation, management, and reform of public administration. Administrative doctrines are themselves influenced by social, economic, political, demographic, and other societal circumstances.

Contemporary administrative development is characterized by two main and very influential administrative doctrines – the new public management (NPM) and good governance, although it seems that Eastern Europe is in search of its genuine doctrine that would adequately mirror its particular circumstances. Thus, for example, Randma-Liiv pleads for appropriateness of neo-Weberian state (NWS) as the normative model or doctrine (2008/9). In sum, expectedly and justifiably, influences, which administrative doctrines produce in transition countries, have continuously attracted resounding scientific interest in Eastern European countries.

## 2.4. Basic Research Implications

Although there is little doubt about the usefulness of comparative approach in researching public administrations, many texts address the problems of comparative analyses (Hopkin, 2002; Pollitt & Bouckaert, 2001; Jreisat, 1999; etc.). It is important to build a reasonably firm frame for comparative analysis based on the relevant theoretical postulates and built from relevant concepts suitable for comparison. A list of more practical issues, themes, and moments has to be developed, encompassing the whole range, from structural and functional to cultural and environmental issues. Not only reform programs and regulations but also results of administrative reforms, their outputs, outcomes, long-term impacts and side effects have to be taken into account so we would be able to perform an in-depth comparison (comp. Kuhlmann & Wollmann, 2014). However, having in mind specific value situations, different developmental paths, and many different influences, an attentive analysis of national idiosyncratic specificities has to get an adequate place.

Comparative analysis is not a new approach in post-socialist countries. There are many publications which compare the particular components, elements or issues of administrative systems in these countries, such as local self-government, regionalization, performance management, influential doctrines, civil service systems, influence of economic and fiscal crises on public administrations, public management, etc. (Vintar et al., 2013; Kattel et al., 2011; Bouckaert et al., 2008; Coombes & Vass, 2007; etc.). The books about national paths have been published. A number of papers inspect certain issues of interest for comparative analysis, but in a limited number of Eastern European countries, even in only one country, employing a case study approach. There is an ever-growing body of published work, research and project results, and other types of sources for quality comparative analysis. Official and semi-official reports of national and international bodies and organizations also contain a lot of data on public administration reforms in Eastern Europe.

What is specific to this monograph is the span of countries, since only the new EU member states from Central, East and South-Eastern Europe have been included. Other post-socialist transition countries are not analy-

zed. Apart from the constrained territorial coverage, the approach is systemic, as all parts and components of public administration have been taken into account. Structural, functional, cultural and environmental issues have been included, as well as history, tradition, developmental paths, trends, and influential doctrines. Methodologically, the comparison is based on in-depth and firm data based on national analyses.

A thorough and systemic comparative analysis of public administration reforms in new Eastern EU member states may help answering whether this part of the European Union is characterized by naïve cultural following, hesitating Europeanization or deliberate search for genuine changes.

One of the conclusions based on the results of current research is that the changes of administrative systems of the EU member states, especially those in Eastern Europe that are a component of the EU integration, foster comparative public administration research Europe-wide (Kuhlmann & Wollmann, 2014).

Some of the most distinct administrative changes identified by previous comparative analyses are:

- Centralization of national public administrations which have become increasingly integrated networks of multi-level governance,
- Mushrooming of public agencies, especially at the national level, with increasing role of independent regulators,
- Strengthening the position of the executive, and diminishing the role of national parliaments,
- Redistribution of power at the ministerial level in favor of the ministries of finance,
- New tendency towards regionalization and strengthening of other institutions dealing with the implementation of regional policy and regional development,
- Narrowing local competencies and reducing the autonomy of local governments,
- Increasing the role of private and non-governmental providers of public services,
- A new quest for more intensive citizen participation with increasing efforts to make public administrations more transparent and open,

- Attempts to foster strategic planning, design sound policy processes, and initiate data-driven evaluations,
- Efforts to develop modern, professional civil service, and promote public administration education that fits that end,
- Setting anti-corruption institutions and new ethic infrastructure of civil service, etc.

It is not easy to identify the real causes and sources of such changes, but it is undeniable that they have been parallel with the EU accession process, and that at least a part of them has been facilitated by the EU and, in general, Western technical assistance. There are numerous bitter assessments of that assistance, and many more bitter experiences in Eastern Europe (Sobis & de Vries, 2009; Nemec, 2008). What can be generally concluded is that Western standards, concepts and recommendations for Eastern Europe are far from unequivocal, and that the attempts to foster one-sided model based on the new public management do not really fit the circumstances of Eastern European countries. Such a situation not only opens the possibility, but also asks for the development of genuine domestic responses to mammoth governance challenges. If they are still based on dwindling ideas, thus producing muddled governance (Koprić, 2012), it is not a definite argument against the possibility of finding appropriate solutions.

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### 3. Public Sector Reforms in Lithuania Since 1990

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#### 3.1. Introduction

This chapter covers several aspects of public administration reforms in Lithuania: (i) constitutional context, (ii) formation and developments at the central administration level, (iii) regional and local governance reforms, or in many instances their lack thereof, and (iv) development of the civil service. These, in our opinion, were the key areas where dynamic change took place, or a lot of effort was made on behalf of reformers to bring about change. But what is more telling, perhaps, is that over recent years the focus of the political elites has shifted away from public administration in general. Public administration and civil service are treated as if they were given, and only few attempts yielded the reforms. But this is primarily not for lack of trying and initiative on behalf of civil servants, as much as it is a result of a hung parliament that has now lasted for 4 parliamentary terms. In this context, comprehensive reforms present more risks than opportunities as far as the deputies on the floor of parliament are concerned. In our section we offer a short overview of crucial initiatives to change the key elements of public governance that have never really materialized beyond academic and informal discussions, such as government-wide guidelines or regulation on administrative process, standards of ethics, clear distinction between public administration and other public agencies, as well as that of civil servants and public employees. These are the questions that produce the proverbial 'implementation gaps', because they leave far too much discretion to various actors to skew initial reform ideas, and discourage such reforms on behalf of political leadership.

In the early 1990s, the Baltic states started their post-communist transformation with a statehood formation, which apparently offered the opportunity for a radical break with the previous system of governance. However, many of the governance practices did persist. It is worth noting that the three Baltic states were constituent republics of the Soviet Union, and as such had an extensive administrative system completed with prototypes of the parliament (the Supreme Soviets of the Soviet Union), and a full ministeri-

al structure. And the people who staffed these structures in many instances had a possibility to remain in the public administrations of the independent states. This is especially true for Lithuania, where the Communist Party was mostly composed from ethnic Lithuanians, and managed to successfully maneuver to dissociate itself from the party structures of the Soviet Union just prior to independence. Although, as elsewhere in the region, communism was seen as imposed from outside and foreign to statehood itself, the fact is that the Lithuanian Communist Party successfully rebranded and positioned itself as partakers in the independence movement, a mass layoff of administrative staff never materialized. In fact, in many instances the transition to the market economy was taken advantage of by the people closely aligned with both the communist party and communist administration of the Republic. And this further reduced the possibility for radical administrative reform.

The situation changed towards the second half of the 1990s, when the EU membership perspective became a reality, and the political and economic elites built a consensus on advancing the agenda of joining the EU. The years between 1995 and 2000, arguably have seen the greatest pace and substance of governance reform which included the stabilization in the way municipalities are organized, a major central government structure overhaul (including a ministerial reform), emergence of the process of agencification, creation of framework legal regulation in the form of civil service laws and public administration laws. It may be argued that later editions to the practice of Lithuanian governance just prior to the EU accession, such as the program budgeting and strategic planning, have had substantially less effect on the workings of public governance.

Over the quarter of the century, the economy of Lithuania has seen unprecedented economic growth out of the collapse of the economy in the early 1990s, which outperformed most of its neighbors, and this goes a long way in claiming that the institutional setup of the countries' governance is fit to meet the contemporary challenges. Lithuania has managed to surpass over the past two decades all neighboring countries in terms of economic output. However, several notable instances of failure in governance may jeopardize most of the achievements reached to date. Namely, (i) inefficiency, or lack altogether of a meaningful regional development policy, (ii) great economic disparities that have since 2004 led to the *migration* of a *large number* of

citizens to countries *abroad*. In fact, the process of emigration has been so dramatic that Lithuania as a EU member state with the youngest population became the fastest depopulating member state by 2013 (Sipaviečienė & Stanikūnienė, 2013). The youth bulge that existed in 2004, and all the economic achievements that were reached while it still made an impact on the economy in the late 2000s was lost due to the global financial crisis of 2008-2010. Lithuania suffered one of the largest economic declines worldwide, and had to undergo a radical fiscal consolidation (Nakrošis & Vilpišauskas, 2015).

The global financial crisis of 2008-2010 in Lithuania gave rise to a government with the most ambitious public administration reform plan over the entire 25-year period. However, it has largely failed to achieve its goals. Although only some leeway was made, the hope for comprehensive reforms did not materialize. In addition, this informs our key thesis about the Lithuanian public governance – its constitutional setup does not allow a comprehensive reform after they were conducted in the late 1990s by the construction of the EU-compatible administrative mechanisms. We believe that the primary reason for this inability to implement the comprehensive reform is due to complex checks and balances of the decision making mechanisms regulated by the constitution, and a powerful business lobby that had its say in the process of the formation of the current public administration system and whose interests remain most salient within the political process (Norkus, 2012). However, all this is not to say that an incremental process of administrative change is not occurring. Lithuania is fully committed to the EU and best practices and recommendations are keenly adopted.

### 3.2. Early Developments: A Very Stringent Constitutional Setup

Lithuania was the first country to leave the Soviet Union by a democratic parliamentary vote, which included both a union-wide and constituent republic election. The February 1990 elections, which were the first democratic elections under the Gorbachev's *Perestroika* and *Glasnost* initiatives, resulted in the victory of *Sąjūdis*, a pro-independence movement active under *Glasnost* reforms for over 2 years before. The manifesto of *Sąjūdis* explicitly declared an intention to declare independence in case of electoral victory (Lietuvos Sąjūdis, 2016). Similar political movements in Latvia and Estonia also won elections, however, they did not follow through with the declarations of independence

until one and a half years later in the wake of *August Putsch* in 1991 in Moscow.

This early movement on declaring independence had lasting effects on the governance structure of the country and the paths its administrative reforms took. In a decision just prior to the 1990 election, the Lithuanian Communist Party made an important declaration – that the Lithuanian Communist Party would legally become a separate entity apart from the Soviet Union Communist Party (Genzelis, 2004). In the election, the Communists attained a 1/3 representation. Their vote for or against the independence could have made the difference between a crackdown and attempts at a peaceful negotiation with the authorities of the Soviet Union.

The decision to declare independence within a month of the election was made because the Soviet constitution of 1979 had provisions, which allowed constituent republics to one-sidedly declare independence. However, the first post-election Soviet Union Supreme Soviet session agenda (scheduled for late March 1990) included the constitutional amendments that would have closed this possibility. On March 11, 1990, Lithuanian Supreme Soviet (immediately renamed itself to the *Reconstituent Seimas*), almost unanimously, with the communist MP's support voted in favor of independence.

This unanimity in the independence vote had a price in terms of public administration reform. The soviet administrative structures of Lithuania remained largely unchanged immediately after its independence. The first two years of independence were not favorable for the reform, because of the precarious situation of the country's statehood being occupied by over 130,000 soviet troops, and later, in the wake of *August Putsch*, *Sąjūdis* parliamentary faction fragmented in the face of its loss of *raison d'être*. Various factions of *Sąjūdis* became proto-political parties of the modern political system, including the *Social Democrats*, conservatives, and liberals. The fragmentation produced a protracted post-August 1991 parliamentary stalemate. It was agreed to break it by calling for an early election, which would coincide with a referendum on the new constitution in late 1992.<sup>3</sup> It is within that context of drafting that the constitution included a variety of safeguards, which created

3 The 1990-1992 period was regulated by the Temporary Main Law (Lith. *Laikinasis pagrindinis įstatymas*) approved by the parliament on the day of independence and is, in most respects, not regulating public administration, and allowing most administrative processes to continue onwards from the Soviet times.

a complex decision-making and staff assignment procedures to the executive, but also retained the Soviet-era mixed proportional and majoritarian parliamentary election model. Both of these features of the constitution work made the Lithuanian governance system increasingly hard to reform, as the parliamentary majorities since 2000 have in all instances been coalitions, and all comprehensive reforms need to pass through 3 to 4 autonomous decision-making institutions.

The Lithuanian constitution was drafted in the context of a broken parliament, and this is the primary cause for including an extensive number of so-called checks and balances, which mean that comprehensive reforms are hard to come by. The constitutional court has ruled on presidential, parliamentary, and government interaction on several occasions, and in 1998 stated that Lithuania is a parliamentary republic with certain features of presidentialism (LRKT, 1998). In essence, this means that the President can actively participate or block policy processes that originate in the interaction between the government and parliament. The President also has extensive powers to assign ministers; and the Prime Minister (PM) has no possibility to relieve ministers without the President's, or Parliament's consent. At the ministerial level, this is further complicated by the fact that individual ministers are responsible to the parliament personally for policy of their respective ministry, meaning that they have the possibility and often the motivation to block or stall policy formulation at the cabinet level, and the PM or other ministers may not be able to do much about it, especially when this relates to junior coalition partner ministers. The fact that Lithuania has a partly majoritarian system of elections, which consistently fails to produce one-party governments, the reforms that are either comprehensive or controversial are next to impossible to initiate (Bileišis, 2012a).

### 3.3. Developments in Central Administration

In the first decade of Lithuania's independence the political vision of post-1990 Lithuania as a 'western' country was a key element of the consensus of the political elite. Moreover, the post-EU accession carried on this legacy in the context of diligent compliance to the EU standards (Maniokas, 2009). However, the capacity to realize this vision and understanding what it entails in terms of developing public governance was initially lacking. Only

the adoption of the Constitution in late 1992 and coinciding general election allowed the beginning of public governance modernization in earnest. In 1994, a ministry called “Ministry of Governance Reforms and Municipalities” was set up, and its main task was developing and implementing governance modernization, decentralization and other policies in the context of public administration reform. This ministry was liquidated in 2000 with most of its staff being integrated into the Ministry of Interior with two departments: Regional Policy and Public Governance Policy being the main public administration reform policy structures to this day. Other two elements of public administration reform ecosystem are the center of government – the Government Office and the Civil Service Department under the Government. Several other ministries, such as the Ministry of Economy and Ministry of Finance, play a role in steering policy goal setting.

The Ministry of Governance Reforms and Municipalities at the outset formulated three key public administration modernization areas: (i) simplifying the administrative process, (ii) making public administration more accessible to citizens, and (iii) creating real administrative responsibility mechanisms (Rokickienė, 1999). These areas were seen as particularly lacking with respect to Lithuania’s EU accession process, a formal bid submitted in late 1995.

An important factor for reforms was also the fact that the parliamentary terms of 1992–1996 and 1996–2000 did not need a coalition. The pendulum election phenomenon, which occurred throughout the decade, brought the ex-communists to power.<sup>4</sup> In addition, during the parliamentary term of 1996–2000 the Conservatives party – party that emerged from the largest faction of *Sąjūdis* held the parliamentary majority. During the 1992–1996 reform, the focus was on reforming the territorial administrative setup of the country, while no comprehensive reform at the central level of administration was taken. It was the 1996–2000 reform, that the PM and the President were keen on radical shift in terms of governance that consisted of the most profound series of central government reform, including an overhaul of the ministerial system, development of Civil Service and Public Administration laws both passed in 1999. It was the passing of the Public Administration

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4 At that time known as the Democratic Labor Party of Lithuania (*Lith.* Lietuvos demokratinė darbo partija, LDDP).

Law that cemented the reforms of prior three years into a governance system that has been changing only incrementally since.

In the process of development of the Public Administration Law, there was no clear vision of which countries should be taken as examples for the system. The United Kingdom, Norway, and Finland became the prototypes that were taken into consideration primarily for the preparation of the law (Rokickienė, 1999). In the Lithuanian public administration discourse, the division between Anglo-Saxon and continental administrative systems is persistent, and Nordic countries are often perceived as being closer to the Anglo-Saxon model. This perception is based on the fact that Nordic and English-speaking countries embraced New Public Management (NPM) reforms much more than those in the continent. Although the EU accession did raise requirements for administrative capacity which were closer to the standards of Weberian bureaucracy, the Lithuania's policy was also strongly affected by NPM-style recommendations of the IMF (Guogis, 2014). Mostly this was due to the need for fiscal consolidation and for purposes of boosting competitiveness as the Lithuania's public finances suffered three major economic downturns: (i) immediately after independence, (ii) during the Russia's sovereign debt crisis of 1998, and (iii) the 2008 global financial crisis. However, these policies produced a serious social inequality which now threatens future growth prospects (IMF, 2016).

There is some controversy over the outcomes of economic policy reforms that were made possible through the creation of NPM-style administrative system, focused on economic growth and catering to businesses and investors (Norkus, 2012), as it produced one of the most successful economic performances not only in the region, but worldwide, yet is characterized by a large income inequality and low salaries, and exceedingly small proportion of the Public Sector relative to GDP within the European context. In addition, some studies suggest that the Lithuanian reform path (differently from that of Estonia), never espoused the NPM's rhetoric and was never reflected by the political elites as a clear policy goal.<sup>5</sup> In a way, these reforms were seldom comprehensive and were imposed by the IMF requirement, EU accession process, or business lobby.

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5 With some exceptions considered, most notably the two governments under PM Andrius Kubilius in 1999–2000, and 2008–2012. These governments did explicitly formulate their reform agenda by using the NPM rhetoric.



The government under PM Gediminas Vagnorius of 1996–1999 coincided with the election of a diaspora representative Valdas Adamkus as its president. Both have consistently expressed their attitude that the Lithuania's institutions did not transform together with independence and kept soviet-style practices in place long after they were relevant and argued for radical administrative reforms. The two-year period between 1997 and 1999, when the leaders agreed on the need of administrative reform and together pushed for it, coupled with a parliamentary majority and created the necessary conditions favorable for radical reform. This movement was also spurred by the fact that in 1997 Lithuania was listed as a country not eligible for initial enlargement (together with Romania and Bulgaria), and building public support for greater reform. These conditions are the only instance that allowed radical reforms to occur. It is not for lack of trying but rather the institutional setup of the country that has created severe problems for comprehensive reform, as evidenced by the developments in the wake of 2008 global financial crisis.

The period between 2000 and 2008 was characterized by a rapid economic growth and only minor reforms, such as introduction of strategic planning. However, this did not become a tool for policy making as much as a fiscal policy instrument (Bileišis, 2012a) important for the use of EU structural funding. It was the global financial crisis, coupled with a housing bubble in the Baltic States, which resulted in double-digit recession in all three countries that drew attention to governance mechanisms that allowed this to occur. Several key issues were identified by research in the past years as needing policy-makers attention and reform efforts: agencification, low return on investment made by the state-owned companies, unclear criteria for awarding the status of civil servants, and disparities in regional development.

Martinaitis and Nakrošis (2011) have demonstrated that Lithuania has undergone a very rapid process of agencification with varying results. However, several important negative outcomes are evident: smaller agencies cannot mobilize enough resources even for most basic innovations, or staff training, many of the agencies have unclear status as to their responsibility, and there is no registry at the level of central administration to monitor the process. Many of the agencies may be registered as service providers when, in fact, they may perform public administration with limited oversight.

However, during the parliamentary term of 2008–2012 the government underwent a major overhaul at the level of central government. The legal basis for the central government is laid down in the Constitution of the Republic of Lithuania and in the Law on the Government. According to this law, the government is responsible for coordinating the activities of ministries and agencies as well as the activities in the scope of the strategic plans of the government, such as the strategy for national development. To improve the management of state institutions, the government approved the concept for the Improvement of the Executive Power System in 2009. Improvement directions of an executive power system were oriented to modernize particular systems: government agencies, ministries, state agencies under the ministries, territorial management, public institutions, and state-owned enterprises. An attention was paid to the performance improvement of government institutions – their status and role in the formulation and implementation of state policies were defined more clearly, more robust relationships with ministries were established, and their organization principles were unified. It also set out the criteria for the establishment of ministries and defined their purpose more clearly. In order to improve the system of state agencies under the ministries their competences were purified, clearer public administration authorization procedure was established, and their organization principles were unified. However, the central government has experienced stalling, if not a reversal of this reform during the tenure of the government of the 2012–2016 parliamentary term.

State-owned enterprises pay a disproportionately small amount of dividends to the state budget in the context of the EU. There are serious doubts that these companies make investments, since they are inefficient, not focused on returns, or even corrupt. However, the 2008–2012 government's attempt to create an incorporated enterprise tasked with management and oversight of all state-owned enterprises failed as some of the coalition partners did not approve of this model (Jurkonis, 2012).

With regard to both agencification and investments few attempts were made to address these shortcomings. Nevertheless, there was a lot of activity with regard to the development of civil service and municipal reform in Lithuania, albeit it was similarly plagued by lack of consensus for comprehensive reforms.

### 3.4. Developments in Regional Policy and Municipal Administration

#### 3.4.1. Early Years

One element of Gorbachev's *Perestroika* was greater autonomy given to the constituent Soviet Republics to organize their governance, and in Lithuania, this took advantage prior to the declaration of independence. In February 1990, a Law on Local Self-Government was passed. However, this document did not meet the many of the European standards of good governance: there was no clear distinction between local and central government functions outlined, and also the law foresaw a two-level municipal system with no clear distinction of functions at that level either (Lazdynas, 2005). Moreover, the territorial-administrative division was not reviewed, and the division formed in 1963 still forms the basis of contemporary Lithuanian municipal system (Atrauskas & Bileišis, 2013). The problem with the 1963 territorial-administrative reform is that it does not fit the pattern of territorial-administrative divisions elsewhere in Europe, with lower-level municipalities having in many cases under 1,000 residents while the mean size of the higher-level non-urban municipalities is near 50,000 residents. This system was not workable at the lower level, but instead of its review, its municipal status was abolished and these areas became territorial-administrative units with municipal offices (elderships).

Municipalities in Lithuania have few powers and discretions. On the one hand, this is seen as a negative feature of the Lithuanian governance system (VDU, 2016), especially in a sense that it has created great developmental disparities between Vilnius and the rest of the country. This has led to straining of public services systems in the capital and overcapacity in the rest of the country which burdens municipal budgets, and is difficult to abridge due to the political salience of laying off highly educated staff in smaller municipalities.

At the outset of independence, municipal councils elected mayors who were heads of administration. However, very quickly and in contradiction to the idea of separation of powers, amendments to the Law on Municipalities were made, which integrated the position of the chairperson of the council and mayor. In 2002, the Constitutional court ruled this to be unconstitutional, and an amendment to the Law on Municipalities was made to create the

position of Director of Administration, appointed by the Mayor (who remained the head of the council) (Astrauskas, 2006). However, there are many doubts if directors of administrations have sufficient independence from mayors for the municipal governance to be considered to conform to democratic standards of separation of powers.

### 3.4.2. Debates on Different Levels of Regional and Municipal Administrations

By 1994, it was understood that first level municipalities cannot mobilize resources to conduct effective activity, and they were abolished. Meanwhile, at the higher level of administrative territorial division debates on having regions emerged. The result was the division of 56 Lithuanian municipalities into 10 counties (Žilinskas, 1999). However, rather than having a municipal status they became a mechanism of deconcentrating central government. The logic behind their creation was to implement reforms (such as land reform and land restitution) regarding which there were doubts about the municipal capacities. Another argument for the establishment of counties was the need to offer services of the central government geographically closer to citizens living outside Vilnius. Nevertheless, the county administrations were not seen as efficient, as many of the government agencies would have their own network of offices, and the advent of ICT in government made the whole concept obsolete. With the land reform having ended, county administrations were one of the most notable victims of 2008–2010 crisis austerity measures.

In parallel to counties, starting in the early 2000s, a debate on new regions that would correspond to NUTS II requirements began. Primarily, this was driven by a *New Politics* parties: *Law and Justice* and *New Alliance*, and in 2000, parliamentary elections started the era of coalition governance. These two parties managed to hold the coalition just for six months. After falling out with each other, the *New Alliance* created a coalition with the *Social Democrats* (which emerged as a major party when it merged with the *LDDP*, and the Lithuanian communist leader of late 1980s, and the President between 1993 and 1997 became the Prime Minister).

However, it was *Law and Justice* in their election manifesto that planned to create four administrative regions based on ethnographic of Lithuania.

At the time, Lithuania could have formed four NUTS<sup>6</sup> II regions, but accidentally, the Soviet-era planning foresaw five major cities as regional centers; and the attempts to identify which four should become regional centers failed, therefore Lithuania entered the EU as a single NUTS II region.

During the economic crisis, and the abolition of county administrations, the idea of NUTS II regionalization emerged again (Žilinskas, 2009). Again, no agreement could be reached, as by then the depopulation allowed only three regions, any municipality near Vilnius that would be included in the Vilnius region would probably lose access to the EU structural funding, while Vilnius on its own is too small to form a NUTS II region. It was only in 2015 when projections showed that due to Vilnius' economic prominence the entire country might lose access to the EU structural fund, a decision to form two NUTS II regions was taken, it included Vilnius County (also a NUTS III; the only county having more than 800,000 residents) and the remaining territory. Once again, as in so many other areas of public governance, the reform focus is on incremental change to adapt to the challenges posed by outside forces.

Regional governance reform in 2009 was limited. The County Management Reform,<sup>7</sup> despite its fancy title, was in practice a liquidation of county bureaus. The aim was to use the state budget funds more effectively i.e. to reduce administrative burden and bureaucracy, and to bring public services closer to the people via their transfer to the jurisdiction of municipalities. Tasks and functions of the county governors' offices in many instances duplicated functions of central or local public management institutions and were eliminated altogether.

### 3.4.3. Moderate Municipal Reform

In 2000, it was becoming clear that the 56 municipalities of the county, based on territorial-administrative division of 1963 sorely stuck out in the regional context of EU integrating states, and several reform steps were undertaken. A moderate attempt to reform was undertaken with a possibility opened in the Law of Territorial Administrative Units given several geographic criteria.

6 NUTS – Nomenclature of Territorial Units for Statistics, an EU regionalization instrument.

7 County offices were deconcentrated central government units. Counties remain a reference for statistical purposes representing NUTS III level but no administrative structures are imposed on them. Nonetheless, some of the central agencies still organize their territorial units along the lines of counties.

According to that regulation, at the time nearly 40 territories could form new municipalities. A consultation was conducted with the residents. However, the outcome concluded that the residents of only five territories decided that municipalities are needed. In addition, another four territories had their boundaries changed; these included three areas which had a status of *city* municipality, which was awkward because these were very small municipalities that had a special *resort* status in the soviet territorial-administrative division. As a result, Lithuania still maintains a system of districts (*Lith.* rajonas from *Russ. translation.* rayon). The reform has affected 10 territories that have the status of municipality (*Lith.* savivaldybė), 43 district municipalities (*Lith.* rajono savivaldybė), and seven cities (*Lith.* miesto savivaldybė) (Astrauskas, 2011). However, this classification is of little material impact in the administrative sense as they all need to comply with a single law, which is especially problematic because the smallest municipality has 200 times fewer residents than the largest. There are speculations that these disparities need to be addressed with a more nuanced regulation, yet no practical steps have been taken to that account.

In term of administrative reform in the municipalities, a similar moderate incremental change is the norm. The period between 1997 and 1999 was characterized by increasing the administrative power of the mayor by allowing him/her to employ advisors and other immediate staff on his own account. On the other hand, in 2000, the elders of the territorial sub-units of municipalities (those that were 1st level municipalities prior to 1995) became career civil servants. However, the national parliamentary realities starting in 2000 affected municipalities in a similar manner. In most municipalities, coalition rule became the norm, and mayoral power was in decline. This was countered by multiple initiatives to change the mayor status, primarily with regard to direct election, and possibly making mayors head of the executive. These debates lasted far more than a decade, and in 2014, an amendment to the law was passed which created the direct mayoral election but kept mayor status as chair of the council. This raised questions of governability of municipalities in cases when mayors are not part of the ruling coalition.

The issue of elderships, especially after the elders became career civil servants, is also a contentious issue with some proposing to liquidate the institution altogether, while other proposing a return to some municipal status. In 2008, a compromise regulation was adopted. The localities in elderships can

now elect *seniūnaičiai* – members of the community that form a board at the eldership, and discuss and identify areas of action for the elder. However, this board is purely advisory, and cannot affect the elders or municipal actions in any imperative form.

In 2012, the Council of Europe and Local Self-Government Congress adopted a recommendation No. 321 for Lithuania to identify the key areas where local self-government needs reform:

- Sub-optimal competencies of municipalities,
- Insufficient funding,
- Lack of competency on the part municipal servants
- Low level of community involvement into municipal affairs (CoE, 2012).

Reforms aiming at remedying these shortcomings are not underway, however, one bright spot is among the larger municipalities, namely Vilnius and Klaipėda, which due to their large size and a tradition of right wing, Mayors had used the of the “Dawn” and “Sunset” recommendation commissions established in 2000 by the outgoing Conservative government to modernize their internal processes. These cities are regularly cited as livable, competitive municipalities with best services (Guogis & Gudelis, 2003). Nevertheless, the capacity to apply modern public management methods is severely lacking in smaller municipalities due to both financial reasons and the difficulty of attracting capable personnel.

In conclusion, the absence of territorial-administrative reform at the outset of independence has proved to have a lasting legacy on municipal development. On the other hand, the urban policies of the Soviet period make it problematic to create regions of the NUTS II level, and administrative structures of the NUTS III did not find their function either. Lithuania does suffer from an absence of meaningful regional policy and reform, while the single level municipal system that exists is severely lacking autonomy and capacity to implement its mandates with the Law on Local Self-Government, limiting reforms in the large cities and making next to impossible to achieve a minimum standard of good governance in the smaller municipalities.

Occasional political initiatives which advocated a differentiation of regulation for municipalities of different size, or to introduce a second level of municipal administration have not been successful. As in other areas of PAR,

reforms are incremental and an outcome of not well-considered and reflected strategy, but imposed from – without the government – by either international actors or pressure groups.

### 3.5. Civil Service

Civil service developments followed a similar pattern as reforms of central government, with substantive changes occurring only after Lithuania's bid to join the EU, period of Presidential and Prime Ministerial concord, and perceived Lithuania as lagging in the integration process between 1997 and 1999. In the period preceding the Law on Civil Service only one attempt at modernization was undertaken, and that was the 1995 *valdininkai*<sup>8</sup> Law. Nevertheless, this Law was merely an attempt to harmonize the regulation of civil service with the democratic constitutional provisions, which the Soviet era regulation was incompatible with. Other than that, the Law did not have any ambition to modernize the civil service. In fact, it can be argued that in most areas of public governance the capacity to develop relevant reform visions was painfully lacking, and there was a large gap of understanding of how modern Western democracies operate (Masiulis, 2007).

In Lithuanian literature on Civil Service, typically three stages are identified: (i) pre-*Valdininkai* Law, (ii) under the *Valdininkai* Law, and (iii) post-1999 development of the current civil service system within the framework of the Law on Civil Service. It also can be claimed that a fourth stage is underway as civil service has been identified as needing further strengthening and depoliticization (Meyer-Sahling & Nakrošis 2014). In 2010, the department was transformed into an agency under the Government of Lithuania, previously being an agency under the Ministry of Interior. With this shift a several editions for a new law on Civil Service were drafted and submitted to the parliament, however, the parliament had failed to pass any of these over a period of four years.

Between 1990 and 1995, the key focus of political principles was loyalty of civil servants, and a large degree of politicization plagued the system. However, the effect on the replacement of servants was limited, as *Sąjūdis* could

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8 *Lith.* *Valdininkas* is a direct translation from Russian term of bureaucrat - *chinovnik*. This term is linguistically considered inappropriate as it implies governing, rather than serving the public. Yet, this term is firmly set within the public discourse when criticizing government officials.



not organize large-scale reorganization before 1999, and later the LDDP Government was mostly aligned with the civil service due to the close nature of relationships between the Communist Party and the Administrative system in the *nomenklatura*<sup>9</sup> model.

The first stage of civil service reform began with the adoption of the Law on Government in 1990 which included some provisions on personnel policy of institutions within the executive. However, this regulation was abstract and did little to affect the practices of recruitment, which was conducted by individual institutions based on internal guidelines (Minkevičius & Ivanauskienė, 2007). With the country's statehood in question for more than one and a half year after the declaration of independence, the primary concern of the Government was the loyalty of civil servants assured by *ad hoc* measures. In addition, it was only the LDDP government which came to power after the adoption of the Constitution that included a program provision to regulate the civil service.

By 1995, the *Valdininkai* Law was finally passed (Juralevičienė, 2005) and the second phase of the development of civil service began. The *Valdininkai* Law was not a radical break from the Soviet system in a sense that it regulated not only the civil servants engaged in public administration but also public service provider professions. Hence, this period is better characterized as a public service (rather than a narrower civil service) period of Lithuania's public sector human resource (HR) policy (Smalskys & Minkevičius, 2013). On the other hand, the law identified two levels of the service: A level was referred to as political appointees, and B level was referred to as servants. The B level public servants were categorized into *Corps* of service by profession (medics, police officers, judges, *valdininkai*). Although the Law provided professions of public service provision a similar legal status, the Law mostly focused on regulating HR procedures of the *valdininkai* (civil servants), leaving large discretion to organizations that employed personnel from other *corps*.

The law included some contemporary HR management elements never

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9 The Soviet Communist Party structure duplicated the administrative structure of the state, and there was a large overlap between the two which means that all of the soviet bureaucracy was, in Western terms, politicized. And the LDDP were the direct inheritors of the Communist party, while at the point of independence, the majority of the servants were appointed through the *Nomenklatura* model. And this was very different from the other two Baltic States, where Communist parties were in large part Soviet era immigrants, and did not qualify for citizenship, and consequently, a right to serve in civil service.

before seen in Lithuania: civil servant assessment (at the time called attestation, *Lith.* atestavimas), provisions for harmonizing the HR management across the public sector, data bank of civil servants, training of civil servants. The main institution tasked with creating the overall HR management system was the Ministry of Governance Reforms and Municipalities which created regulation on recruitment and examination of candidates, set qualification standards, such as age, experience, education, personal traits.

However, the passing of the *Valdininkai* Law coincided with the Lithuania's bid to join the EU, and the missions of OECD SIGMA immediately indicated that the Law is not up to standard and would need amendment – the Law was seen as too complex, with plentiful loopholes, and training provisions were not implemented (Cordona, 2008). Furthermore, the Law was referred to the Constitution court immediately after the 1996 election, and parts of it were declared unconstitutional and had to be changed. In 1997, with the international PHARE program aid a government project Administrative Reform of Lithuania (*Lith.* Lietuvos administracinė reforma) was started. One of its goals was the creation of an EU-compatible Law on Civil Service. The program launched discussions about which model of civil service would best suit Lithuania's needs (Adomonis, 1999). Despite the recognition that the NPM-style *position system* may be more flexible, it was considered at the time that the civil service should be more insulated from the general labor market to ensure stability and loyalty to the government in the face of low capacities of the state to resist corrupt influences and politicization, hence the civil service mostly adhered to the principle *career system* (Minkevičius & Ivanauskienė, 2007).

In 1999, the Law on Civil Service was passed. It regulated the civil service in the strict sense, with only civilian servants implementing administrative functions being awarded the status of civil servants. The uniformed (statutory) services were by then regulated by several specialized statutes which included necessary HR provisions (border guard, police, military, etc.). The new Law applied to the statutory services only insofar as the statutes did not regulate relevant aspects of the service. The professional *corps* were also no longer regulated, and the public service provision professions were regulated by the general labor code, making no distinction to employment in the private sector.

The Law on Civil Service was amended dozens of times since its adoption in 1999. And since 2012, there is an academic consensus that a new compre-

hensive reform is needed. However, the fact remains that attempts to pass a new edition of the law are frustrated by political impasse. The underlying principles of the Law on Civil Service have in most part remained intact since 1999 but an incremental movement towards greater control of recruitment, and in parallel, the introduction of principles of the *position* model can be cited.

The Law identified four types of civil servants: political appointees, career civil servants, statutory civil servants, and replacement civil servants for temporary openings. And the main aim of the regulation for civil servants was the creation of a meritocracy in the civil service, and also greater mobility across institutions. This – it was hoped – could build capacity of institutions despite the recruitment to higher positions excluding much of the labor force (Adomonis, 1999). The new law also harmonized the remuneration system, introducing 20 salary categories and set bonus regulations and limits.

The Law was criticized at the outset for its restrictive effect on recruitment which was perceived as risking greater corruption, rather than reducing it through loopholes that allowed unfair examination. This was attempted to be remedied with new amendments (most notably in 2002).

The 2002 Amendment listed social guarantees, clarified remuneration framework, and more importantly, included explicit listing of civil service values as imperative guidelines for HR practice: political neutrality, efficiency, publicity and transparency, quality of service provision, and responsibility for decisions taken. Also the experience requirement for certain positions was removed, although PA institutions still have the right to include it in the job opening qualifications requirements, and often exercise that right.

Another major changes in 2002 included the creation of a civil service agency – the Department of Civil Service under the Ministry of Interior which was tasked with overseeing the implementation of the civil service regulation and also several cross-cutting functions, the need for which was apparent in the hope of attaining the original goals of the civil service law (Smalskys & Minkevičius 2013). The 2002 Amendment did not raise any major policy goals, but was rather an attempt to remove unforeseen shortcomings of the original 1999 edition. The European Commission Progress Report for 2002 has indicated that the Lithuanian civil service complies with the accession standards but also cautioned that the system is still highly sensitive to political shifts and could be deconstructed (CEC, 2002). The EC report – praising the achievements and

cautioning for the future – was a watershed moment for civil service reform. No radical reforms were undertaken since. The existing system offers a large degree of discretion to public administration institutions with regard to deciding which members of the staff can be awarded the status of a civil servant. But the practice that emerged over the years indicates that a restricted number of personnel would hold such a status in any given organization: personnel engaged in policy formulation, coordination, and oversight, drafting of regulation and contracts on behalf of PA organizations, budget funded project and program coordinators, and those making decisions on implementation of policy and the application of regulation in particular cases (Šarmavičius, 2005).

The shock of the economic crisis spurred the new right wing government into action. The governance reform became the core element of the government program. The government's answer to the crisis was to attempt the implementation of a comprehensive NPM-style reforms. The civil service was at the core of this initiative (*Lith.* Valstybės valdymo tobulinimo komisijos 2009–2012 m. veiklos ataskaita). A greater shift towards a *position model* was envisaged but the crisis meant that planning for a new governance system needed to coincide with immediate measures to appease fiscal pressures.

During the period of 2008–2012, a process of cuts in the number of public administration agencies and numbers of civil service was underway. The decisions were primarily in reaction to budgetary cuts, and were mostly made at the ministerial levels. The government office conducted assessments of efficiency using the methodology functional analysis (*Lith.* Valstybės valdymo tobulinimo komisijos 2009–2012 m. veiklos ataskaita). The goal of these assessments was to develop policy-relevant criteria for the identification of areas of cuts. These were in some instances used to abridge public administration organizations of unnecessary functions, and reduce the numbers of staff but ministries exercised significant discretion in the way they acted upon the results of assessments.

The main philosophy of the 2008–2012 civil service reform was the creation of an individualized system of assessment which would then lead to individualized remuneration and training. Leadership skills of managers were also identified as a key focus of the reform (Pivoras, 2012). Systems of organizational management which would allow a management-by-objectives style aligning the individual civil servants' competencies and job results to attain strategic goals of the organization were also envisaged (Rimkutė & Kirstukaitė, 2011).

Several initiatives were incorporated within the existing framework of the Law on Civil Service, such as annual civil servant assessment by the manager, and individual civil servants action plan. However, the position model was criticized in the academia as it was ill-fitted to the uncooperative compartmentalized and highly legalized modes of action of the Lithuanian public administration, and which would need to change first (Kasiulis & Pivoras, 2012). The new edition of the Law on Civil Service did not receive a parliamentary majority vote and was returned for review in 2012, already under a different government. In the wake of parliamentary elections of 2012 a new coalition headed by the social democrats was formed and its program did not include any major changes or ambitions to the governance system. Nonetheless, it also did not roll back the changes that were put in place and looked favorable, albeit in a watered down form of initiated reforms by the previous government. Within the civil service this was an attempted introduction of a competency-based model in the civil service which did not deconstruct the existing status of civil servants, but would allow better HR management in all respects. It is recognized that a low salary base of many civil servants does not create sufficient incentives for most qualified staff, and robust social guarantees need to be in place in order to retain and build administrative capacity.

By 2016, the Department of Civil Service developed a civil service competency model, and drafted a new edition of the law again submitted to the parliament. It included:

- Competency-based horizontal HR management system across PA institutions;
- Distinction between general competencies, leadership competencies, and special competencies is made. All civil servants would need to meet a certain standard of general competences, and managers – a certain standard of leadership competencies. Special competencies would be set by professional requirements of a specific job opening and would be contested in open examinations;
- Unified registry of civil servants, and also other potential candidates that have gone through competency testing would be held, and used for purposes of recruitment, training mobility across agencies, and performance assessment;
- Civil servant category system would be simplified to a list of job title:

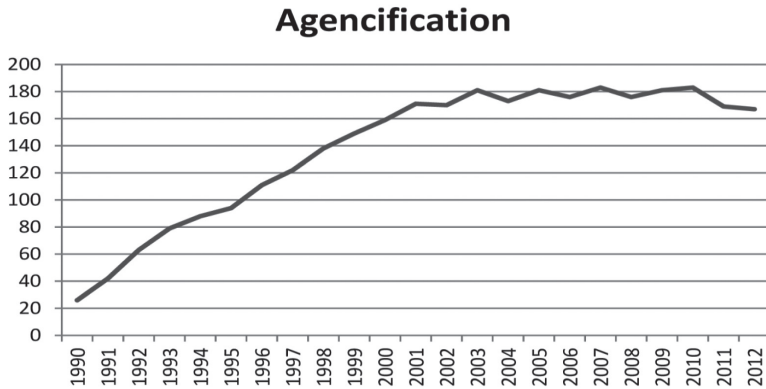
specialist, senior specialist, etc., which would ensure baseline remuneration, while the salary would significantly depend on competencies and performance assessment;

- Harmonization of competency requirement for similar positions in different public administration organization would be implemented (VTD, 2013).

The new competency model of HR management would entail significant changes in the remuneration system, the outcomes of which are hard to predict whether they would attain the called for change in the PA culture (Russteika & Diržytė, 2014). The outcomes of other PA reforms in this regard are not encouraging in the sense that other elements of Lithuania's public administration reform have shown that at the administrative level it is difficult to overcome the stringent institutional tension at the political level to build networks of cooperation for policy implementation. The compartmentalizing of Public administration starts at the government and ministry level, and even such cross-cutting initiatives as the civil service competency model are unlikely to do the trick. Substantial bottom-up initiatives are likely needed on behalf of leading civil servants themselves to create these networks through associated action as the political system is not permissive for accommodating these goals at the moment.

### **3.6. Sector Wide Public Administration Reforms**

In this section, we will cover several transversal developments that have taken place, or often more tellingly, have not. The topic of administrative oversight has been a central area of administrative reform throughout the 1990s, and the strategic planning in 2000s, while since 2000, the digitization of government both in terms of the process of administration and public service delivery has come to the fore. On the other hand, there are several areas of public administration which have received hardly any attention on behalf of governing political elites: ethical conduct, setting clear administrative procedures, and clear criteria for which public service employees should and should not be awarded the status of civil servants, as well as which agencies should and should not be awarded the status of institutions of public administration. We believe that the three factors of (i) absence of integrated code of ethical conduct for public sector employees and civil servants, (ii) the fact that in

**Figure 3.1:** Dynamics in the Number of Lithuanian Agencies, 1990–2012

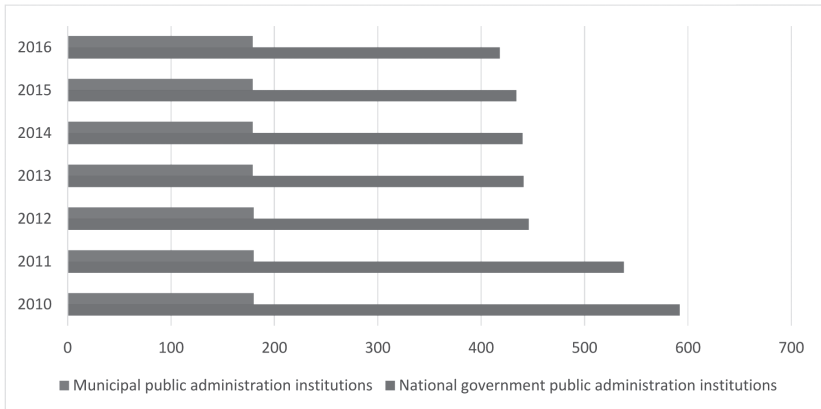
Source: Nakrošis & Bankauskaitė-Grigaliūnienė, 2015, cit. analysis of the LAOC data.<sup>10</sup>

situations can alter the status of their employees with little or no grounding and oversight, and (iii) that there is substantial room to setup public agencies outside of the realm of general regulation of public administration, deserve a separate discussion.

Four major developments in administrative oversight in the 1990s can be listed: (i) creation of the national audit office, (ii) creation of the ombudsman's institution, (iii) passing of the law on public administration, and (iv) creation of administrative courts. The National Audit Office (*Lith.* Valstybės kontrolė, lit. State Control) is regulated by the Constitution, but already by the mid-1990s, it moved away from being an institution of budgetary expenses review to the institution responsible for conducting financial and performance audits of the entire public sector. This institution is accountable to the parliament, and has a very large measure of discretion to conduct planned audits but also to implement audits on request of institutions themselves, including performance audits of strategic plans and programs which cover several policy areas.

10 The difference in the number of agencies as defined by Nakrošis & Bankauskaitė-Grigaliūnienė, 2015 from those cited from Open data of Civil Service of Lithuania in Figure 2 is caused by the fact that Nakrošis & Bankauskaitė-Grigaliūnienė, 2015 applied a stricter test to the definition of an agency, than merely the legal status of „institution of public administration“.

**Figure 3.2:** The Number of National and Municipal PA Institutions between 2010 and 2016



Source: Open Data of Civil Service of Lithuania.

In 1994, the parliament adopted the Law of Ombudsmen. Lithuania has two ombudsmen overseeing national and local government institutions but both of them are serviced by the same institution. This institution received roughly 1,800 complains annually between 2012 and 2014, about  $\frac{3}{4}$  were complains filed against national government officials, and  $\frac{1}{4}$  against local self-government officials. The institution would investigate about  $\frac{1}{3}$  of complains, and another  $\frac{1}{3}$  would be mediated between the conflicting parties, and majority of remaining complains would be referred to other institutions. Between 35% and 40% of complains in total were recognized as valid.<sup>11</sup> Ombudsmen have become an important consulting institution to the parliament with regard to developing new regulations in trying to resolve occurring conflicts between government institutions and citizens (Pranevičienė, 2002).

11 Note: (1) Another 30% are resolved in good will with the mediation of the institution. Therefore, the ratio of recognition of validity of complains which are not resolved peacefully is around 50%, or around 600 cases annually. (2) These data are cited from the 2015 Annual Report of the activities of the seimas ombudsmen's office of the Republic of Lithuania. This and other reports are available at: <http://www.lrski.lt/lt/seimo-kontrolieriu-veikla/metines-seimo-kontrolieriu-veiklos-ataskaitos.html> [2016-09-10].

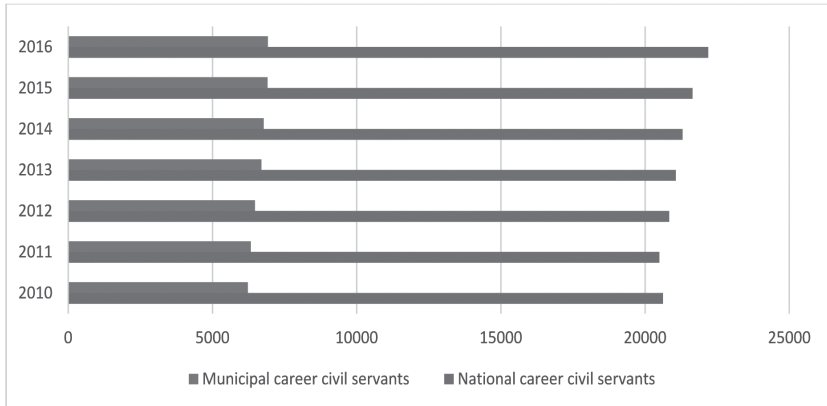


But there is no research available on what impact this interaction has for future conflicts.

The passing of the Law on Public Administration in 1999 was another notable moment of the development of public administration in Lithuania. The Law identifies the category of public sector organizations which are granted powers of public administration: “The system of entities of public administration shall mean entities of public administration which are related to each other by subordination and coordination relations and have been granted the powers in accordance with the procedure laid down by this Law to engage in public administration” (VIII-1234, 1999; citing amendment XII-511, 2013). This Law limits the establishment of ‘public administration’ institutions without the approval of the parliament, except in matters of EU regulation. In fact, the EU accession has been the key force behind the explosion of agencies, both in Lithuania and the rest of the region (Nakrošis & Bankauskaitė-Grigaliūnienė, 2015; see Figure 3.1). The registry for these institutions in 2016 has identified 597 agencies, and 772 in 2010 (the earliest year covered by the registry; see Figures 3.2 and 3.3). However, the overall number of civil servants has kept incrementally growing over the same period but the overall number of employees (including statutory and civil servants) remains relatively stable at around 80,000, i.e. under 4% of the labor force (see Figure 3.4 for a breakdown of civil servants, Table 3.1 for the numbers of civil servants). One important sidenote with regard to the Lithuanian public sector is its incredible feminization of the career civil service. In 2016, women constitute 76% of all career civil servants, and that ratio has not been changing since 2000. However, only 37% of heads of institutions, and 40% of the statutory servants are women.

An important stage in the development of public administration started in 2004 when the Government approved Public Administration Development Strategy (2004–2010). It was the first strategic document for public administration modernization and its further development. This strategy set out objectives to create a transparent, effective public administration system based on new technologies and oriented to results and appropriate service. Five areas were identified for the improvement: central government, territorial central government, local government, administrative capacity (HRM), and e-government. A subsequent strategy: Public Management Improvement

**Figure 3.3:** The Number of Employees in National and Municipal PA Institutions between 2010 and 2016



*Source:* Open Data of Civil Service of Lithuania.

Programme for 2012–2020 aims at improving key public management processes, such as designing, planning, and implementing public policies. It states the goals “to enhance openness of the public governance processes and to encourage society to take an active part in them; provide good quality administrative and public services; strengthen the capacities of strategic thinking in public administration institutions; and improve the management of their activities.”

Much of the development of public governance was incremental and initiated on behalf of civil servants themselves (Nakrošis, 2011). The laws on civil service and public administration were not comprehensively reviewed and this is a key characteristic of PARs which tend to be bottom-up with civil servants advancing new developments in agencies that have greater autonomy. And those in most cases turn out to be the agencies that conducted their activities in policy areas directly related to the EU regulation. Nakrošis & Martinaitis (2011) and Nakrošis & Bankauskaitė-Grigaliūnienė (2015) corroborate this generalization to some extent. However, as is the case with the institution of the ombudsman research of how the networks of civil servants impact the practices and outcomes of public administration need to be substantially developed.

**Table 3.1:** The Number of Employees in Public Administration Institutions 2010-2016

Year	Employees without the status of civil servants	Civil servants	Statutory civil servants	Political confidence civil servants	Heads of institutions	Total <sup>12</sup>
2010	21 992	26 063	5 236	841	434	54 566
2011	21 421	25 756	4 991	852	337	53 357
2012	21 064	26 348	5 013	666	369	53 460
2013	20 922	26 938	5 139	891	332	54 222
2014	20 833	27 302	5 153	894	322	54 504
2015	20 358	27 311	5 118	913	321	54 021
2016	19 565	27 603	5 035	921	311	53 435

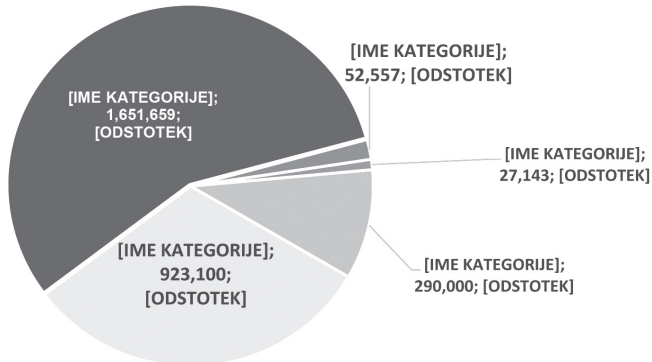
*Source:* Open data of Civil Service of Lithuania.

Administrative courts, a system of 5 regional and one Supreme Administrative Court are a key feature of Lithuania's public administration. These have become a very important source of driving the harmonization of administrative practice. Nonetheless, this feature of Lithuania's governance may also be criticized from the point of view of veto points. As we remarked above, the institutional setup at the level of political decision-making creates severe impediments for reforms as it is. The fact that the judiciary also has specialized institutions to tackle intra-government conflicts does allow the political elites to slip easily of the hook, and not pursue the reforms when needed, as the courts through the issuance of Buletins on Court Decision practice the application of various regulation. In the context of absence of strong associations of the civil service professionals the bottom-up model of reforms is the only one available, and is thus severely hampered. Nonetheless, the Supreme Administrative Court has created a dynamic legal doctrine which is continually updated not only based on the practice of the courts but also on research on the subject of administrative process. As new research comes out, the court is willing to amend its practice.<sup>13</sup>

12 The number is lower compared to Rekašienė (2014) since the Open Data of Civil Service Portal do not collect data on statutory service, institutions which do not report to the Department of Civil Service. In 2014, the overall number of statutory civil servants was around 23,000 (VTD, 2014).

13 Research that is expressly part of the doctrine is available at the website of the Supreme Administrative Court at: <http://www.lvat.lt/lt/administracine-doktrina.html> [2016-09-10].

**Figure 3.4:** Civil Service Relative to the Lithuanian Population and Labor Market in 2013



Source: Rekašienė (2014).

Strategic planning became a key element of public administration just before Lithuania's accession to the EU in 2002 (Government Regulation No. 827). However, the tools of strategic planning were mostly a tool of budgetary oversight for Ministry of Finances. The 15<sup>th</sup> Cabinet substantially amended the regulation on strategic planning in 2009. The new regulation gave substantially greater powers to the center of government, renamed the Office of Prime Minister during the tenure of the 15<sup>th</sup> Cabinet<sup>14</sup>. Based on this new regulation, a long-term strategic plan "Lithuania 2030" was developed (Parliament Regulation No. XI–2015, 2012). This strategy forms the tip of the integrated hierarchy of strategic plans at the national level. This created the context in which the National Development Strategy (Government Regulation No. 1482, 2012), encompassing the entirety of the EU structural support for period of 2014–2019 was developed with reference to the goals of "Lithuania 2030". Yet, the success of strategic planning to create substantial effects on the overall outcomes of governance requires a large degree of interinstitutional cooperation, which in coalition governments is always hard to come by (Bileišis, 2012b). A major share of attention with regard to public administration modernization in strategic planning of Lithuania as far as public administration is concerned is the digitization of public governance. Lithuania is seeing an explosion of creation

14 A decision reversed by the 16<sup>th</sup> Cabinet.

of new online tools for public service delivery, consultation, etc. Yet, the system integration is one part where this was lacking. As a means of mitigating this, in 2003, the Government passed Regulation No. 418, setting the standards for the websites of public administration institutions. This Regulation includes the provisions which allow the Information Society Development Committee under the Ministry of Transport and Communications to regulate technical standards of administrative and civil services run as an “umbrella’ portal, the e-Government gateway<sup>15</sup> for various online services.

The developments that we overviewed in this section lack several important elements, which we believe, are crucial for successful process of public administration reforms: Law of Public Administration provides a very vague definition of public administration, identifying five activities that qualify as public administration:

- Administrative decision-making,
- Control of implementation of laws and administrative decisions,
- Provision administrative services,
- Administration of public services,
- Internal administration of public administration institutions (Supreme Administrative Court Bulletin No. 30, 2016).

The main criteria for becoming a public administration institution are procedural – the awarding of the status of public administration institution (Supreme Administrative Court Bulletin No. 30, 2016). Although another important criterion is the passing of normative administrative acts, there is a very large number of public sectors that may be conducting public administration in substance but are not recognized as such, and employees of these organizations are not civil servants. Hence, this creates a major blind spot in the system of administrative oversight of Lithuania.

The civil service in this regard is particularly interesting because civil servants are present in a great majority of public administration institutions. However, the number of civil servants is roughly matched to the number of statutory servants as well as employees that do not hold the status of civil servants but work in public administration organizations. In addition, public administration institutions are not limited to the executive: courts and agencies accountable to

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15 The address of the portal is: <https://www.epaslaugos.lt/portal/en> [2016-09-10].

the parliament also have that status. All things considered, this means that there is a messy overlap between the civil service and branches of the government where the civil service does not include the entirety of the executive but has an impact on judiciary and legislative branches. The entirety of what we have said in describing the complex institutional hurdles for public administration reforms in Lithuania create loopholes that are a cause of constant attention by the media, and negatively affect the attitudes of citizens towards the government. It has been argued that public administration ought to be legally defined entirely within the executive (Bakaveckas, 2001). In this case, a more lenient initiative of public administration reform would be possible as these reforms would not need to stand the test of compliance to the principle of separation of powers as they would need to do now and face strong lobbies of respective institutions.

The aspect of codes of ethics is the final topic in this chapter, and there is little to say on its behalf. Lithuania has over dozens of institutional ethical codes, and the 2002 Rules on Civil Servants Ethics (Government Regulation No. 968). However, the latter lack oversight and are rather a guideline, outlining and specifying eight principles:

- Respect of citizens and state,
- Justice,
- Selflessness,
- Desency,
- Objectivity,
- Responcibility,
- Publicity (*Author's note* – transparency),
- Exemplary conduct.

The absence of any enforcement mechanisms make this document (not reviewed for nearly 15 years) more of a guideline for conduct (Palidaukaitė, 2010). The relevance of this document is furthermore limited by the fact that both Law on Public Administration and Law on Civil Service outline similar lists of principles which clearly refer to ethics in public administration.

The Law on Public Administration outlines the following principles of „public administration“:

- Supremacy of law (*Author's note* – rule of law),
- Objectivity,
- Proportionality,

- Absence of abuse of power,
- Institutional assistance,
- Efficiency,
- Subsidiarity,
- “One-desk” (*Author’s note* – onestop shop),
- Equality,
- Transparency,
- Responsibility for the adopted decisions,
- Novelty and openness to change.

And the Law on Civil Service:

- Rule of law,
- Equality,
- Political neutrality,
- Transparency,
- Career.

The shortcoming of regulations for ethical conduct in a more broader context may be understood by looking at how major issues with ethics in public administration were dealt with in the 1990s. Lithuania had not developed means of dealing with unethical or corrupt behaviors both in the 1920s and the 1930s, and during the Soviet occupation as well. Paliduskaitė (2011) offer a broader look at the way how ethical behavior is enforced in Lithuania through a lense of analyzing ‚hard‘ regulation that addresses these issues (see Table 3.2).

**Table 3.2:** Ethics Problems in Lithuanian Government since 1918

	1918–1940	1946–1989	1990–onwards
„Bureaucratism“ ( <i>Author’s note</i> – Red tape)	Occurred on occasions	Not legally identified	Legally defined, subject to complaints to Ombudsmen
Conflict of interests	Limitation on having subordinate relatives.	Not legally identified	Illegal, special regulation passed and the Agency of Chief Official Ethics Commission established
Bribing	Occurred on occasion	Not legally identified	Illegal, special anti-corruption agency with right to conduct criminal investigations established (Special Investigations Service)

Abuse of office	Occurred on occasion	Wide spread, blat, practice	Illegal
Protectionism (Author's note – Clientelism)	Occurred on occasion	Wide spread	The creation of the state of political confidence civil servants in the Law on Civil Service
Corruption	Occurred on occasion, was defined as theft, waste of budget funds. Several systemic corruption cases are documented.	Not legally identified, most common form of – embezzlement	Illegal, special anti-corruption agency with right to conduct criminal investigations established (Special Investigations Service). Numerous other institutions are also empowered to investigate such cases.

Source: *Palidauskaitė, 2010.*

### 3.7. Conclusion: In Pursuit of Efficiency?

The business idea of efficiency, by relating revenues to expenses, is problematic in the public sector. Naïve NPM-style attempts to plan for public investment with return calculations have never happened in Lithuania. But rhetorics calling for more refined attempts at creating efficient policy and administration has never ceased. Yet, a clear definition of how efficiency is understood in Lithuanian policy documents on reform does not exist. What this indicates is that one key ingredient is often missing in the entire reform calculus. This ingredient is clear understanding of policy goals – what they are.

As government coalitions come and go, their administrative reforms prove to be only minor, extending only as much as they may appear useful for the election term. Major reforms are driven by goals which have a political consensus across the board. Lithuania had three clear goals in the first 25 years of its independence: memberships of NATO, EU, and Eurozone. All of these were based on a broad political consensus, and all governments worked diligently to achieve these goals. Nevertheless, all these goals were related to Lithuania's greater integration into other governance structures. Upon integration, Lithuania continues to be a most loyal and diligent member of the institutions it joined, and readily accepts all reforms put forward. In this regard, Lithuania could run a campaign to claim the title of the darling of EU's institutions.

However, in the context of public administration reform, the EU (and even



more so NATO or ECB) does not impact the entirety of a Lithuania's administrative system. Institutions and policies are still mostly a sovereign matter in the areas such as social security, education, health, decentralization, and so on. Lithuania manages to be attractive to foreign investors because it complies with their requests and demands but fails to be attractive to its own citizens, losing on average more than 1% population net to economic migration over the past 10 years. In terms of emigration, poverty, and social stratification Lithuania is at a significant disadvantage in the EU (Nakrošis & Vilpišauskas, 2014). There has never been a consensus on these key domestic policy areas, and many of the administrative processes run on Soviet legacy institutional arrangements and practices. Even in cases when reforms are implemented, these reforms are half-measures, with reformers often not bothering to claim otherwise.

Lithuania has demonstrated that it can deliver on reforms when there is a broad political support. But the institutional setup has proven that with regard to comprehensive public administration reform this support is seldom available. Therefore, it is not so much a case of implementation gap as much as it is support and will-to-follow-through gap. Lithuanian constitutional setup allows only narrow windows of general concord among the highest institution. On behalf of the public, the pursuit for public administration reform is also unlikely. Since 2004, Lithuania has lost its youth bulge to migration (Bileišis et al., 2015), the economic transformation has fragmented the society and created a large protest vote (Ramonaitė, 2014) which results in coalitions, and the small media market mostly focuses on the politics of the day. Lithuanian civil servants have no established associations or networks which could communicate their collective attitudes and opinions towards reforms both to the political elite and the public. Using the principle-agent theory terminology, this means that on behalf of the state there are no professional structures that could perform the role of a qualified principle in the state-society relations.

Lithuania's challenges with PAR are not exceptional, and the lack of comprehensive reform does not mean that there are no persistent social and economic pressures which force to introduce reforms, albeit not as ambitious as an odd academic would want. If *Bertelsmann Stiftung's Transformation Index (BTI)* is to be believed, Lithuania comes top with regard to transformation achievement in 2015, and in 2016, being ranked 6<sup>th</sup> (or very good), despite the fact that this report also claims that *policy-makers confine themselves to*

*minor changes* (BTI, 2016). Therefore, it can be argued that Lithuania's stringent institutional system does limit its leadership in policy innovation and reform, rather it insulates it from major mistakes. Yet, what this also indicates that closing the gap of development between Eastern and Western EU member states needs a shift of paradigm in the way public administration is done; by simply adopting the best practices from outside the region is doomed to eternally falling behind, and serve as a periphery of the European project. In Lithuania at least, there is no evidence that the situation is likely to change.

One particular reform deserves attention in this regard. Fiscal consolidation of 2008–2010 was followed, in 2012, by the passing of Lithuania's second long-term strategy colloquially referred to as '*Lithuania 2030*' (Šiugždinienė, Gaulė & Rauleckas, 2013). The design of this strategy is based on Lithuania's standings in various international ratings and goals to move up in these standings. This idea can be considered as an optimal solution in the sense that a consensus that Lithuania needs to move up in various ranking is easy to come by. On the other hand, it is difficult to hold ministries accountable for achieving these goals because the methods of evaluation in the indexes are patchy, and do not cover the entirety of government activities. This means that deconstructing indicators to the level of individual agencies' actions, which could contribute to Lithuania's rise in many of these ratings, requires intense decision-maker engagement and adherence to the evidence-based decision-making principle. To this end '*Lithuania 2030*' was passed under a new edition of strategic planning guideline, also updated in 2012. As part of this strategic planning system, a comprehensive planning scheme has been created which formally requires institutions to draw up their plans to correspond with '*Lithuania 2030*' provisions. But the system lacks a clear monitoring system to identify the correlation between budget allocations, institutional goal attainment, and their relation to the long-term national strategy. One of the strategic plans – one level below '*Lithuania 2030*' is the program for the *Development of Public Administration of 2012–2020*. In essence, this document is supposed to be the public administration reform agenda of the country. It explicitly focuses on citizen empowerment. The analysis behind this program claims that citizen empowerment allows build trust, support, and gain efficiency in the government. However, how this empowerment can be attained and how it would affect country rankings is rather vague in the program.

It can be claimed that persistent issues outlined in the earlier program with regard to unclear accountability of agencies in many cases leave the citizen empowerment initiatives at the discretion of individual agencies. *Empowerment* in this regard is used similarly to *efficiency* – it is devoid of clear definition and impossible to measure. The program's key metric – achieving majority of citizens – would claim they trust public administration institutions is a good illustration. Sociological survey's which measure trust show strong correlation to current events and basing the national long term strategy on such an indicator only creates confusion when evaluating it the strategy is a success. Strategic planning with these shortcomings still in earnest is not a forum for highly public policy debate and government accountability. Rather, it is an effective instrument of fiscal control. One important principle in the strategic planning is overlooked which could alter this with only minor regulatory change – by ensuring that long-term strategic planning is done on a continuous basis with continuously extended planning horizon. Now, this is not being done, and public debates on long-term policy questions are not prominent in Lithuania's public life (Bileišis 2012b). In essence, many of the limitations of strategic planning and performance assessment that have emerged in the early 2000s (Verheijen & Dobrolyubova, 2007) are still not remedied.

In summary, Europeanization in Lithuania is the key driving force of reform in Lithuania (Nakrošis & Bankauskaitė-Grigaliūnienė, 2015). It is the force that comes up against few institutional barriers. But the problem with Europeanization is that it is not all encompassing, and the elements of public administration that are not directly impacted by Europeanization lag behind in terms of modernization. Although Lithuania has avoided the fate of Latinization, as did the other post-communist EU state members, Goetz's idea (2001) of 'islands' of Europeanized administration still holds value when describing Lithuanian public administration. Post-communist transformation is well and truly over but it is not to say that it does not have a legacy. In fact, on the one hand, the reforms in the 1990s did not deconstruct many of the administrative setups that remained from the soviet period, and on the other hand, the drive to create safeguards against a possibility of return to dictatorship or foreign domination in a sense cornered Lithuania with inability to completely deconstruct obsolete and dysfunctional policy areas, or in many instances, implement comprehensive reforms that could give a boost to the development of the country.

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## 4. Public Administration Reforms in Latvia (1990–2016)

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### 4.1. Introduction

The authors of this chapter present an overview of the public administration reforms in Latvia from 1990 to 2016. The chapter consists of introduction, six sections and conclusion. The aim of the study is to provide the characterization of the public administrative reforms from unusual angle for the local researchers. The authors' focus on historical experience of Latvia in reformation of public administration with its impact on decision-makers. The interest groups of the reform process are emphasized and the analysis results are summarized by using stakeholders and their interests' definition approach to describe the reforms of public governance model. Methodology for the interest groups of analysis is systematically applied to public administration dynamics in Latvia for the first time. Finally, the authors divide the reform process according to the time periods, and characterize the features of public administration model developed, civil service development, organization of the public administration functions and the administrative process during each of these periods.

Latvia is a small European Union Member State on the eastern shores of the Baltic Sea that has less than 2 million inhabitants (CSP, 2016). Latvian people were able to implement the national self-determination on this territory after the World War I. The first popularly elected legislature in Latvia was the Constitutional Assembly, the elections were held on April 17 and 18, 1920. Municipalities on the territory of Latvia have existed in various forms since the 8<sup>th</sup> century (Švābe, 1926). Efficiency of self-governments in the territory of Latvia was a compulsory condition according to the Peace Treaty for German occupation army to promote the declaration of Latvia's independence (The Peace Treaty of Brest-Litovsk, 1918), which was implemented and their effectiveness had a condition. In case the condition would be executed, the German army of occupation had to promote the declaration of national independence.

There existed full parliamentary and party democracy, but self-government democracy continued up to the coup d'état in May 15, 1934. On Latvian territory, the totalitarian regimes were in power for 55 years which affects the power system up to the present day. Values and perceptions in the mind of people are changing more slowly than the ability to declare that a parliamentary democracy has been acquired.

In Latvia, the 1922 Constitution (Satversme in Latvian) was implemented with minor amendments, namely, the human rights section was introduced (it complements the international obligations of Latvia acceding to the European Convention on Human Rights (Council of Europe, 1950), and some changes were made concerning the state institutions, mentioning also municipalities in several places. The new elements of the Constitutions interpretation appeared at the beginning of the 1990s.

In February 22, 1996, Latvia joined the European Charter of Local Self-Government. In 2004, Latvia became a member of the EU. Thus, the sovereignty of the Republic of Latvia on human rights, self-governments and EU competence issues is limited by the international obligations of Latvia.

Latvia has a parliamentary system with a single-chamber parliament, the Saeima, which has 100 deputies, who are elected by the citizens from five electoral districts (Latvia's capital city Riga, Kurzeme, Zemgale, Vidzeme, and Latgale). It is characterized by a proportional electoral system with exchangeable sequence of candidates within a list. To enter the Saeima a political party or coalition of parties must receive at least 5% of the total number of votes cast in all five constituencies.

In Latvia, 119 local governments (110 municipalities and 9 cities) operate, and their election procedures coincide with the European election procedure. The self-government councils are elected like the national parliament, i.e. for a term of four years by proportional elections and exchangeable sequence of candidates, and by applying 5% election's barrier. Municipalities with less than 5,000 people registered are allowed to form lists of candidates from voters' association. The ruling coalition is led by the mayors, elected from the voters' association lists in these municipalities, and this could be an evidence for the voter distrust in the interests of political parties, and development of small self-governments.

There are five planning regions in Latvia (names coincide with the names

of the parliamentary electoral districts, but the boundaries are different). Political leadership of these planning regions is elected by the self-government deputies. Planning regions possess all the characteristics of public power and they are considered as the regional authorities established towards indirect elections. Planning regions are not as important as local authorities. Active and passive voting rights are owned by the citizens on all levels of elections in Latvia (self-government elections by both the EU Member States and the citizens of the Republic of Latvia).

14.2% of residents of Latvia are non-citizens, 2.6% are citizens of other countries. Non-citizens do not have the right to vote, but they can work for self-government executive institutions. Any non-citizens' discrimination in any form is prohibited in Latvia, and the state policy is focused on promotion of the voluntary acquisition of the citizenship.

#### **4.2. Historical Experience with Impact to Decision-makers**

Since the Livonian Crusade, and being a part of the Swedish Empire, public administration in Latvia was based on the European traditions as the result of the following changes in administrative arrangement. Even after the incorporation into the Russian Empire, the government structure since Peter the Great's times was largely copied from the West.

The influence of the traditional continental European type of bureaucracy, which was dominating in the Baltic provinces of the Russian Empire in the late 19th and early 20th century, is still felt in Latvia. It is also important to note that the representatives of regional authorities and municipal deputies at that time were mainly Baltic Germans, who had not broken their cultural and educational bond with Germany.

After gaining its independence, this model was modernized – took the form of democratic reforms in Russia after February 1917 under the impact of the Weimar Republic's constitutional model. An improved 1917 version of Russian city law with extended municipal rights was used in Latvia until 1930 (Mucinieks, 1938), and the Russian Civil Code based on ancient Roman civil law until 1937.

The authoritarian coup of Karlis Ulmanis in 1934 and three occupations by the USSR in 1940 and 1944–1945 and by Germany in 1941 had an impact on both today's professors, and not to a less extent, politicians and officials

who, after 1990, had learned from the professors that were affected by the totalitarian ideology.

Three guidelines of Ulmanis' authoritarianism, i.e. leaderism, unity and nationalism increasingly influenced public thinking. They transformed into leadership, anti-pluralism and concern for the survival of the Latvian people, but the base of this line of thought was already laid out in the period of Ulmanis' dictatorship.

The next administrations of bolsheviks and national-socialists differed from the Ulmanis' dictatorship with one-party dominance (during Ulmanis' regime the parties were eliminated, and the opponents were temporarily placed in concentration camps), and turning into a mass terror. Further, following three subsequent occupations under Stalin's and Hitler's rule, the administrative systems were likewise based on fear and hierarchy. Public administration was led from one center and the idea that the local government could have a different policy was not tolerated.

In Soviet times, the situation was controlled by the Communist Party and security services. The power had technocratic features, i.e. the State plan, and tried to use all available management science achievements in order to ensure implementation of the party directives. Local administration mechanisms were based on the executive committee system, i.e. management sector got spread up to the executive committee and the local administrative structures, i.e. bypassing the council. So-called "*Councils of People's Deputies*" were created mainly for propaganda, and their real impact on administrative decisions was minimal.

The totalitarian period has left the influence, which is not easy to force and which is gaining new impetus to influence the currently existing external factors. The USA once supported the idea of Russia's unity, consequently, power vertical and media censorship were implemented. Russia came very close to the one-party system. Officials of the European Commission were trying to strengthen the unity of Europe, gradually more and more encroaching on solving of national and regional competence issues. Economists and lawyers in the Soviet Union though recognized the market economy and pluralism, however, truly sought to achieve uniformity, centralized planning, and unity.

Characteristic values and way of thinking of the totalitarian system were transferred to the students, but young Latvian officials were trying to become

the best Europeans, so they would rather defend “the common interests” of the EU than defend the national ones in the best way possible. This promises a possibility of being promoted from the officials of Latvia to the EU ones.

Theory and experience of other countries certainly impacted public administration in Latvia. From 1990 to 1993, the model of minimal public administration and decentralization was implemented in Latvia; the model was based, to a large extent, on contemporary educated people’s (scientists, engineers’) understanding of democratic values. Equality of public service provider and recipient was recognized as a special value; in both cases, equality should be based on simple and mutually acceptable laws. As it could be assumed that a client does not probably read the laws, it is not necessary to produce it also for the officials. In the same time, monarchism as a theoretical doctrine was not widely known in Latvia then. However, decentralization, to a major extent, was a result of conditions (Communist Party of the Soviet Union nomenclature hoped to be firstly consolidated on the local elections, so an electoral arrangement chosen would be different from that in the majority of Central and Eastern European countries at that time).

The reforms of the next period (1993-1998) were largely influenced by the Latvian diaspora. Latvian exiles, who were acquainted with the traditional elements of governance in Germany, the USA, Australia and Canada, did not urge to take over the New Public Management (NPM), becoming fashionable, but advised to go through all stages and begin with the development of the mandarin type bureaucracy.

NPM was becoming fashionable / popular all around the world, therefore, it was used to reorganize political and administrative power during the reforms of 1998-2002, influence the foreign consultants, who won in competitions, as well as impact the implementation of these administration elements. Re-inventing of government was the most popular option for the New Public Administration in Latvia (Osborn & Gaebler, 1992).

Latvia was also required to fulfil the Copenhagen criteria to be able to join the EU. It was necessary to prove both the fact that market economy is functioning in the candidate country and it will be able to cope with competing goods and services pressure on the market of the future member state and the fact that stable institutions are acting as a guarantee for rule of law, human and minority rights. It seemed that the best approach to these requirements

fulfilment was both converting and growing of bureaucratic structures, which led to the neo-Weberianism concepts during the reforms of 2002 and 2008.

The next period began with a fight against inflation encouraged by the International Monetary Fund and the European Commission (Pūķis, 2010), which was further transformed into the use of internal devaluation to fight the crisis. During this period, external influence played a significant role – Latvia was used as a testing zone looking for an option to save Greece.

### 4.3. Interest Groups with Influence on Reforms

Since 1990 significant processes of social economical transformations have been taking place in Latvia, and in every such process participated the interest groups being influential nationwide. The interest groups (both at regional, national and international level) position themselves more often, according to their endeavors, to obtain relative preferences within the process of reforms, and less often a competition among the political parties could be observed.

In the majority of laws and institutional solutions of the public authorities some benefits or harm to particular interest group may be observed, especially those that were actively lobbying for their interests in the course of drafting a policy or a law, and during the process of drafting and accepting regulations delegated to the Cabinet of Ministers.

The ideal of the rational bureaucracy envisages a politically neutral government. Such an ideal is not feasible due to numerous reasons, and there are no real reasons (except the tactical considerations of the competition of the parties) to enforce it.

Not only do the politicians accept the laws, but also the development guidelines. They are not altruistic and their activities demonstrate both personal and “public interests”. However, no one but the politicians possess the electoral mandate to express the interests of the society.

In Latvia, there are three levels of ‘societies’: (i) politicians elected to the EU Parliament and the ministers of all the member states who accept the laws and policy documents in name of mutual EU interests, (ii) deputies elected to the Saeima who act in the name of the national interests, and (iii) politicians of the local governments who act in the name of local interests.

During the period 1990 to 2016, both the dominating interest groups

have changed and so have the interests. Sometimes these groups have succeeded in achieving their goals at least partially, sometimes they have not. During the entire aforesaid period, a contest of opposite interests has been taking place. Politics has been an expression of contest. Public administration is always characterized by inertia that does not allow any rapid changes. However, the transformations influence both knowledge and interests.

True interests of the groups are usually not named; they can be indirectly judged. The politicians seek to misinform the society, to a higher or lower rate, by putting forward other issues while bringing their true concerns to the forefront.

**The large interest groups in the society.** Consolidation of interests may be established only in separate moments in history. In the early 1990s, the Latvian people could be perceived as a group of unified interests, and its main representative at that time was the Popular Front of Latvia (PFL). Also other national and democratic forces were co-operating with the PFL in rebuilding the democratic state. All of the allies, at that moment especially, should mention the democratically disposed persons of other ethnical entities that supported Latvia in getting out of the sphere under the USSR influence. The main opposition to the nationally democratic process at that period was formed by the members of the Interfront and the supporters of the idea thereof, the majority of whom were colonists of the USSR era, officers of the USSR Army and their family members, and some parts of the nomenclature of the USSR era. This group could be characterized by a tendency to retain the state unity within the USSR territory, preserve the ideology, and alter 'the memories of history', and would not admit the real role the USSR played in the Second World War. Both groups were not capable of preserving their uniformity, and the organizations representing them gradually vanished away.

**Countries with their traditional interests in Latvia.** Particularly Russia, the USA and Germany should be mentioned as they were interested in several aspects of the Latvia situation: firstly, as the sphere of political influence, secondly, as the sphere of economic influence, and thirdly, as the potential ally in action of the external policy conducted by these countries. Within the period of concern, especially Russia and the USA, were seeking to control the Latvian policy, and administrative reforms were the subject of their interest only as means of control. Germany and Russia were also trying to gain the



economic control, especially over the energetics of Latvia. The direct influence was never openly declared, still it could be observed in the unveiled zeal of particular politicians to act in the interest of the superpowers. These superpowers were mostly realizing their interests indirectly, including the mediation of non-governmental organizations and through the influence on the political parties.

Traditionally, also Sweden has interest in Latvia. Before the Russian invasion a major part of the current territory of Latvia was included in Sweden; back then Riga was the biggest Swedish city. The Swedish banks came into Latvia along with other Scandinavian banks; Sweden paid special attention to their protection during the gait of the economic crisis 2008–2013.

**The European Union bureaucrats.** Similarly, to the States, also within the European Union the bureaucrats have become an independent power. In the EU only the European Commission is entitled to submit a draft law. The European Commission may also pass laws on its own, whereas their legal rank is of equal value with the ones accepted through the co-decision procedure of the European Parliament and the European Council. The European Commissioners organize the procedure for making a political discussion. Although formally organization of public administration is the internal affair of every member state, the European Commission significantly impacts the processes. Formally, the European Commission is obliged to ensure that the principles of subsidiarity and proportionality are observed (EU, 2012). In reality, the officials in Brussels are developing a platform for enlarging their number, and thereby influencing the governments of the member states.

It should be taken in consideration that in numerous policy fields the interests of different member states significantly differ, but the European Commission seeks for the mean, supposedly good solution for all. Such a mean solution is not optimal particularly for any of 29 EU states.

**The groups of banks and insurers.** The interests of the banks and the insurance companies in Latvia have merged. Initially, diverse rivalry existed among the banks before gradually two groups emerged: the Scandinavian banks and the banks linked to the Russian capital domestic banks, which were actively involved in lobbying for their interests, including financing the pre-election campaigns. The established system of banks and insurance companies received a significant discount in the field of tax policy but, practically,

they were not financing the industry sector. Their profit interests were targeted mainly at receiving advantages and introduction of mandatory state funded insurance for pensions and potentially – also for health. It was in the interests of banks to rule out any state influence over the capital market in case the state would still like to support the industry sector.

**Oligarchs in the political parties.** Within the people's movement of Popular Front of Latvia (PFL) a significant influence of the divisions was established along with democratic procedure of decision taking – including active sectors' committees. However, as it was discovered by a German sociologist Robert Michels (1915) some 100 years ago (according to the oligarchy iron law) every large democratic system develops bureaucracy first, and further the elite undertakes the leadership of the organization. Following the rapid period when a multi-party system was developed between 1992 and 1995, at the end of this period, a tendency of reforming the internal structure of the parties occurred (presidents of parties started co-opting half of the board, influence of the committees was decreasing, ruling decisions were transferred to the respective fraction in the Saeima, etc.). In order to strengthen the power, short-term solutions were chosen seeking advantages in next elections (for instance a deformation of the proportional election system through introduction of alterable lists, prohibitions in the laws of the political parties financing and pre-election financing that led to potential dependence of the political parties to the shadow economics, and likewise).

**The privatizers.** Initially, privatization was the essential event of the transfer period which ensured irreversibility of the changes, so that the experience of centralized planned economics would be forgotten for good. The PFL had prospected 'just' privatization of certificates, which ultimately resulted in acquiring of apartments or loss of the certificate value for those who already owned a home. In the first half of the 90s, an interest group developed, which decided to turn the privatization in favor of their own interests by developing a complicated system of legislation, stimulating the certificate market before real enterprises were there for sale against the certificates. It was continued by acquiring the majority stakes at the large state enterprises for the certificates obtained through the speculative operations. Finding the 'strategic investor' for these enterprises was the subject of a contest. The domestic privatizers impersonated to be foreigners (by registering in offshores)

and lobbied creating taxing advantaged to foreign investors. In Latvia, there still exist desirable enterprises of the national and local governments, therefore, the privatizers are lobbying laws to forbid the state or the local governments to conduct any business activities.

**Denationalizers.** At the very beginning of the independence period a date should have been determined to which the property restitution would have been applied. At the beginning of the WWII, after splitting Poland between the USSR and Germany, the majority of the Baltic Germans left Latvia. Denationalization was conducted in favor of those persons who overtook these properties, especially in favor of the 1940 occupants. A powerful interest group named the Moscow Orthodox Church appeared that received as the properties of the Constantinople Orthodox Church in “restitution proceedings”. Later, it became essential that a beneficial would guarantee for those having succeeded in the denationalization process, thus the tenants of denationalized house ownership which were lobbied for.

**Seekers of industry advantages.** Next to the banks and insurers also other groups developed that were looking for advantages against other entrepreneurs in the field, or were trying to receive more favorable tax regime or a special support for the entire industry. Examples of such entrepreneurs were producers of renewable energy, owners of the large farm estates, organizers of gambling establishments, waste processors, and others in favor of whom legislation was lobbied to put other entrepreneurs and consumers at a disadvantage.

**Seekers of regional advantages.** Rivalry of the parties prior to the election stimulates splitting of the society. Having obtained the power, it is advantageous to facilitate consolidation of the society in order to fix the gains in the result of the elections. However, if the victory is not complete (in case of Latvia it became apparent when those coming to power in the local authorities were not the same winning majority of the Saeima), the government is eager to provide support to one region against the others (for instance, by splitting the territory to prospective and non-prospective municipalities).

The regional advantages showed themselves in organizing the processes of centralization and concentration, as Riga doctors’ endeavors to concentrate the health financing in Riga, and as closing the regional agencies during the crisis in favor of the ministries.

**The lawyers of Latvia.** In accordance with the public choice theory (Buchanan, 1960), lawyers as a professional group act in personal interests. Notwithstanding the basic function of the lawyers to apply the law for solving the life situations, they influence legislation processes in the status of experts; they themselves get elected to the legislation institutions and establish the case law in the Constitutional Court procedure. A significant role played by the lawyers themselves was to participate in the privatization process and draft ambiguous laws thereby aiding to achieve the private goals. The lawyers of the USSR era prepared their own replacement thereby by transferring particular values of the totalitarian period to the current legal system.

**The bureaucrats of Latvia.** In Latvia, alike other democracies, every new norm of law or the regulation of the Cabinet of Ministers enlarges the amount of the potential influence of the bureaucracy. The civil servants are gradually gaining confidence that without a total re-regulation and careful control of the independently developed norms the life would cease. Therefore, a certain alarm was caused by the decision made by the Cabinet of Ministers to develop 'small and effective governance'. In the further events the representatives of various ministries joined their efforts not to allow such statements regarding small governance put to question.

**The political parties of Latvia.** In the multi-party system, rivalry among the political parties is an essential factor. At the period of concern a range of political force that used to constitute the government have completed a full cycle of development and already terminated (Popular Front of Latvia, Latvian Way, People's Party). Particularly significant influence on the state reforms, and the borders being altered through the administrative territorial reform, was exercised by the rivalry among the parties constituting the governing coalition.

**The local governments in Latvia.** Right after the Moscow coup of August 1991, the initiative of PFL Latvian Association of Local and Regional Governments (LALRG) was founded. On December 14 and 15 the foundation congress was organized where several decisions were made on the basis of determining development of powerful and united association (Pukis, 2010):

1. Only public entities – local authorities – as participants are allowed;
2. Voluntary entrance and seceding;

3. Membership fee proportional to the non-earmarked budget income of the local authority;
4. Possibility to join also other associations to protect specific interests of the groups.

During the further development the minority guarantees were not allowed to vote if more than a half of some type of the municipalities (prior to the Administrative territorial reform of 2009 there were 5 types) would deem such voting unacceptable.

These conditions allowed developing a powerful organization that had its influence in all the stages of the public governance, and often impeded the endeavors of the central government to centralize its power and realize its reforms against the regional interests of Latvia. A stable system of formal consultations was developed that included submission to the Cabinet of Ministers drawn annual agreement and disagreement protocol along with the budget project (Pukis, 2010).

#### 4.4. Reforms of Public Governance Model

The public governance models replaced one another in accordance with the political agenda that corresponded to the interests of those groups that were prevailing at the respective period. The interest groups that significantly influenced the shape of the public governance are shown in Table 4.1. As the result of collaboration, confrontation and compromises of these interest groups the models of the public administration appropriate to the respective period were chosen (as shown in Table 4.2).

**The transitional period (1990–1993).** The content of this period was a confrontation between the Latvian people (this was the only period when the interests of such a large group were brought forward) and the part of the inhabitants who wanted to prolong the period of occupation and assimilation of the Latvians. The democratically disposed foreigners were the allies of the Latvian people. The reforms of 1990 and following were based on 1) democratization, 2) deoccupation, and 3) decolonization.

As the previous power had planned to win the local authority election first, and then exercise the obtained administrative resources at the parliament elections, the sequence of events turned out to be reverse in Latvia. The

idea of the Communist Party of the Soviet Union did not come true – PFL won the local authority election. That is why the previously mentioned three principles of reform may be added by the fourth one – decentralization.

The victory in the following election of the Supreme Council did not provide control in the center. The USSR security services, USSR Army and structures of the Communist Party continued functioning – the situation could be described as diarchy. During the period of the central diarchy the properties, rights of decision and initially ½ of finances were handed to the local governments; and the democratic principles of rights were acting in parallel to the new legislation, thus the legislation of the USSR era was partly preserved.

**Table 4.1:** Dominant Groups and Their Interests during the Reform

Period	Interest group	Dominant interests of the group
1990–1993	Latvian people, democratically minded foreigners	Restore the nation state and democracy, nationalism and anti-communism. Restore democracy, anti-communism.
	Colonists, who wanted to preserve the Soviet Union	Save a united country from the former Soviet Union territory, defend the former and present communists and laudatory myths about communism.
1993–1998	Economically active former participants of the Soviet nomenclature	Create national political elite, obtain political power and create hard transparent legislative environment to make it easier to hide at beneficiary during the privatization process. Replace the civil service and make it a tool for the ruling elites' interest implementation. Subtract power from the self-governments that was given to them during the previous period.
	PFL and Latvian National Independence Movement members, who wanted to faster turn privatization to a personal benefit	
	Representatives of Latvian diaspora with economic interests in Latvia	
	Self-governments	
		Keep decentralization, achieve a clear division of functions between the state and the local governments.

Period	Interest group	Dominant interests of the group
1998–2002	Germany, the USA	Add Latvia to the NATO and the EU.
	Russian oligarchs, who are interested in Latvia	Repurchase nationalized or privatized property by obtaining a decisive influence in the sectors.
	Latvian entrepreneurs – foreign capital importers	Improve legislative environment so as to make a reveal of the real beneficiaries impossible.
	Russian security services	Prepare the conditions for economic and political destabilization.
	International financial institutions	Develop national mandatory funded pension system, and compulsory health insurance system
	Self-governments	Keep development funding from national means. Avoid forced merger of self-governments during the Administrative-territorial reform.
2002–2008	Germany and Scandinavian businessmen with interests in Latvia	Speculate real estate, buy and sell businesses / enterprises.
	Russian oligarchs, who are interested in market of Latvia	
	Brussels bureaucrats	Promote mobility (depopulation of Latvia).
	International financial institutions	Maximize the state compulsory funded pension scheme as much as possible.
	Latvian officials and politicians, who saw the continuation of a career in Brussels	Take the initiative for stricter rules which than the EU needs to implement in Latvia.
	European super powers politicians	Slow down production development in Latvian.
	Latvian lawyers	Ensure the interests groups' demands and high salary.
Self-government	Save existence of national investments. Decrease of spreading over-regulation (normativism).	

Period	Interest group	Dominant interests of the group
2008–2016	Banks that specialize in profit from unsafe lending	Obtain state funds, continue to withdraw the capital from Latvia, eliminate state-owned banks.
	Domestic and foreign entrepreneurs, who want to earn by privatizing and reselling	Privatize profitable state and self-government enterprises that have not been privatized so far.
	Large farms owners	Obtain state support to buy out the small agricultural plots of land.
	International financial capital representatives	Maintain and develop state mandatory funded pension system, and introduce a funded system of health insurance Achieve public support for bankrupting banks.
	Ruling political parties	Introduce censorship, control expenditures of self-governments.
	Self-government	Maintain the autonomy of self-government personnel. Keep development support for the whole territory (all local governments) of Latvia. Withdraw country from the internal devaluation policy.

*Source: own compilation.*

**Table 4.2:** Features of Public Administration Model Developed during the Reform Periods

Years	Features of public administration reform	Civil service development	Organization of functions	Administrative process
1990–1993	Model of minimal administration. Decentralization, democratization, denationalization and de-occupation.	Partial lustration. Legislation on the unified work in both public and private sector.	Liquidation of centralized planning. Decentralization: Fiscal, property, administrative, and staff autonomy of the self-governments.	Administrative disputes are being solved as a competition between persons and institutions (on behalf of the state or a self-government) under the civil procedure.



Years	Features of public administration reform	Civil service development	Organization of functions	Administrative process
1993–1998	Traditional model of bureaucracy with features of Max Weber's bureaucracy. Phasing in-troduction of normativism, increase of the laws in volume and a number of exceptional provisions.	Politically neutral career civil service, 12 categories and compulsory exams, specific social protection, particular disciplinary process without distinguishing discredit of sufficient funding.	Partial centralization (capital, education, health). Proposals to implement a merger of self-governments without decentralization of power and finances that was declined by self-governments.	Administrative process typical for the continental Europe was introduced in institutions. Civil process is continued in the court where the parties are competing.
1998–2002	Introduction of New Public Administration elements (system of agencies, administrative contracts, management contracts, result, and customer-oriented management). Concentration of controlling and repressive structure, and bureaucratization preconditions.	Decision on a large civil service. Liquidation of the state civil service administration. Instead of the career civil service, the civil service was opened (competition instead of exams).	Split of the responsibilities (separating policy developers, policy decision-makers, policy implementers, observers, controllers, and punishments implementers). Normativism and unsuccessful attempts to merge self-governments.	Preparation and adoption of the Administrative Procedure Act by the parliament, which eliminated the competition principle. A specific disciplinary process for the public officials was introduced.

Years	Features of public administration reform	Civil service development	Organization of functions	Administrative process
2002–2008	<p>Legal nihilism in violation of norms of international contracts and conscious drafting of controversial laws.</p> <p>Administrative-territorial reform (ATR) distortion, giving up goals and reducing the reform to the merger.</p> <p>Normativism as the means for “implementation of the EU requirements”.</p>	<p>A large, non-motivated legally civil service was established. Salaries of the civil servants did not increase almost for the entire period, although the wages in the economy market increased three times.</p>	<p>The State Administration Structure Act was implemented, contrary to the international agreements of Latvia applied to introduce a single hierarchical administration ignoring the global and EU commitments as well as existence of the regional and local governments. Permanent jobs were created due to a complex legislation, resulting in a potentially confusing division of competences.</p>	<p>The Administrative Procedure Act was adopted, which did not presume the competition any more.</p> <p>The institution used principles that were attributed to the court.</p> <p>Concentration of the ministries’ and agencies’ internal procedures.</p>
2008–2016	<p>Efforts to set up a minimal administration, whilst maintaining a high level of overregulation.</p> <p>Introduction of unified motivation system.</p> <p>A struggle about privatized enterprises and land.</p> <p>Shift of the power to the Council of Coalition.</p>	<p>One more civil service reform is prepared; its introduction was postponed due to the disability to agree on the level of concentration.</p> <p>Repeated attempts of the self-governments’ integration to the state civil service.</p>	<p>Local administrative territorial reform, regional establishment is postponement expressing a negative attitude.</p> <p>Legislative spatial division of perspective and non-perspective territories.</p> <p>Concentration.</p>	<p>Bureaucracy of administrative process.</p> <p>Discussions on introducing various disciplinary proceedings.</p>

*Source: own compilation.*

The Republic of Latvia, alike the events in 1918, was derived from the local authorities. On April 21, 1990, in the Daugava Stadium a convention of all level deputies took place, which was dominated by the deputies of the local and regional governments who with more than 8000 votes against less than 100 votes assigned the re-elected Supreme Council to declare the restoration of independence (Pukis, 2015). Based on the mandate given by the deputies of local authorities the Independence Declaration of May 4, 1990 was adopted.

In order to realize transition from the totalitarian system of the centralized planned economics characteristic to the occupation regime, the following activities were conducted:

- a. Introduction of the national currency;
- b. Communalization of the state properties;
- c. Privatization against vouchers;
- d. Restitution (return of the property and land to the owners at the date of the USSR occupation);
- e. Withdrawal of the occupation army;
- f. Lustration (restriction of the political rights for the persons actively supporting the occupation regime);
- g. Joining the international organizations and international agreements;
- h. Supporting the local governments to eliminate the system of executive committees (vertical hierarchy was terminated);
- i. Elimination of multi-layered budget (reaching financial autonomy of local authorities);
- j. Preserving of several components of the totalitarian system, including only partial implementation of the principle of subsidiarity;
- k. Partial implementation of the principle of minimal governance.

Simultaneously, the transition from a bipolar system to multipolar system was taking place, the Latvian Popular Front was gradually losing its significance, and the political parties that would participate in the 5th *Saeima* election were being created.

The dominating domestic interest groups at this stage are shown in Table 4.1. In Latvia, alike the Baltic and the Central Europe countries being under the influence by the USSR, mostly the external factors affected the result of the internal process – mainly the Moscow coup of August 1991 during which

the restoration of the orthodox communist regime failed.

Overall, this period may be characterized as a model of minimum governance with high level of decentralization. This choice was determined by the proportion of forces and necessity to develop a new order from its beginning after 55 years of totalitarian regime.

**Pseudo-restoration (1993-1998).** Restoration was formally content of that period in force of constitution (*Satversme*) and democratic order of republic proclaimed in 18 November of 1918. That purpose was only partly implemented because the interests in 1993 were different from the interests in 1922.

Change of the ruling political forces took place. Prior to the 5th *Saeima* elections a new political elite was emerging, a club principle was introducing itself. The leading force of the time being 'The Latvian Way' grew out from the 'Club 21'. In the meantime, the historic politically influential organizations got their activities restored – the masons and the student fraternities. Participation in organizations, like the Rotary Club and the Lions Club, came into fashion.

Being a member of a single club system made easier establishing coalitions and the development of elitism in the newly founded and restored political parties. As shown in Table 4.1, interest groups had a task determined – to ensure process through which the properties of the USSR period ended up in their hands as the private property. Opposite of the initial minimalism in the law and governance antipodal tasks moved forward. For this purpose, a different legislation and different public governance were needed. The Constitutional Law and the Civil Law were reinstated in power, a new wording of the Cabinet of Ministers Structure Law was drawn, the initial version of which did not contain a detailed characterization of the governance referring the State Civil Service Law to be adopted soon (*Saeima*, 1994a), and became a tool of the public governance reform.

At the end of 1993, the Ministry for State Reforms was founded in the temporary regulation (the Cabinet of Ministers, 1993) of which the departments of local municipal reforms and government reforms were envisaged. It is worth mentioning that the local municipal reform is seen as the state reform in compliance with the USSR tradition.

Essential elements for realization of the dominating interests were the Anticorruption Law (*Saeima*, 1995) and the Law on Financing of Political Organizations (Parties) (*Saeima*, 1995). The former provided a choice among

different models of combatting corruption trying to invent as high normativity as possible, and doubling several controlling institutions. Actually, such policy (even though this approach is popular within the majority of EU countries) leads to rapid growth of the potentially corruptible officials (Pukis, 2004). The higher is the corruption level, the cheaper one can realize one's private interests which otherwise would be difficult to ground. The later determined a disproportionately small maximum amount of party financing in case of a separate official financing body. This norm was envisaged as a tactic tool for decreasing the rivals' prospects in the following elections, but in fact, it strengthened the connection between the ruling elite and the shadow economics by stimulating various schemes of circumventing the law for providing finances for the activities of the political parties.

Overall, this period may be characterized as the model of traditional administration within the framework of which the centralization process was commenced by seeking return to the central power, and the competences that were given over to the local governments in the previous period.

**New Public Administration (1998-2002).** As it is shown in Table 4.1, many interest groups were interested in the changes. Though the lawyers had carefully worked on legalizing the privatization before, the brand new elite was not fully confident that the privatized assets would not be taken away. Therefore, the privatized assets had to be sold and the obtained means had to be transferred offshore. The time had come to involve foreign investors to much wider extent; the entrepreneurs from Russia, the USA and Scandinavia started to understand their interests in Latvia more clearly.

In order to substantiate these changes, such foreign statements were arranged that would facilitate the changes required by the local elite. Including – the principles of NPM that had become globally popular by then. An exceptional attention was paid to the external form of NPM – agencies were established, governance contracts were concluded with the agencies' managers, and governance contracts were drafted by the civil servants. It made no obstruction to the spirit of NPM – by ejecting application of entrepreneur-like methods within the public governance.

Introducing the elements of NPM was not the goal of the contemporarily ruling elite. Although at the moment the consultants from the New Zealand acted in Latvia, the most essential elements of the system were never introduced.

In parallel to this, Total Quality Control was introduced that facilitated bureaucratization of the system and delayed NPM introduction. The Administrative Procedure Law was adopted that envisaged a complicated system of administrative act, and made rapid and effective decision-making nearly impossible.

However, the conclusive element for the temporality of NPM was the politicians' disinclination to gather, summarize, analyze, and publish information on the achieved results. In order to preserve the possibility to run the state or the municipality like an enterprise, it is essential that the success and failures are objectively assessed. Overall, the reasons of NPM failure in Latvia were similar to those in other countries where the NPM ideas were gradually losing their popularity. Another reason that made success of NPM barely impossible was the tendency to establish a single procedure that should have equally regarded different central government sectors and also local governments. It would have been of similar failure if all the private enterprises had been managed in the same manner by providing similar structures and equal procedures. This would mean that a small and a large enterprise, an enterprise both in the beginning of its lifecycle and in the end thereof; an enterprise in the stable market and at rapidly changing market conditions would be managed in exactly the same way. It is utterly obvious that in such case the productivity would decrease. However, a single procedure was proposed both by the economists who had been taught by the values of the centralized planning, and the European Commission which was also more interested in unification of the procedures than efficiency of the EU budget use.

**Joining NATO and the EU (2002-2008).** As it is shown in Table 4.1, also during this period other interest groups moved to the forefront, and were seeking to overtake or strengthen their influence. During this period, initiatives were lost by the long-term ruling party 'The Latvian Way'. At the end of the period, the life cycle of the People's Party was approaching its termination. New political forces were being organized with a purpose of redistributing power and influence.

It is also of importance, that the people's expectations in the 1990s had not been achieved to a great extent. Therefore, by replacing the ruling parties and starting new reforms elite could sustain the balance and the social peace.

One of the preconditions for the new member states to join the EU was the capacity of enduring the pressure of goods, services, and capital from the

old member states after joining. This was the aspect wherein Latvia was prepared worst of all. The haste was to be grounded by unwillingness to stay within the sphere of the Russian influence but such haste affected the well-being of the population. That was why Latvia was eager to demonstrate maximum diligence in adoption of the legislation and fulfilment of various, sometimes for the Latvian circumstances, destructive requirements.

So that even a bigger diligence of adoption of the legislation would be simulated, it happened more than seldom that the laws of previous period were adopted under new titles, for instance – the Corruption Combatting Law (Saeima, 1995) was renamed Law on Combating Conflict of Interests (Saeima, 2002). However, fundamental changes were also introduced, especially this regards the Law on the State Administration Structure (Saeima, 2002).

If the Administrative Procedure Law (Saeima, 2001) let the way for a sharp growth of normativism (overregulation), then the State Administration Structure Law (Saeima, 2002) marked a radical turn towards centralization. The harmful part of the State Administration Structure Law was featured in the title itself – instead of term ‘public administration’ a different term of ‘state administration’ was used in this law. And within this ‘state administration’ a joint hierarchy was postulated. Thus the grounds of an incorrect reading of the Article 58 of the Constitution were being employed (Pukis, 2010).

Thereby the State Administration System Law ignores the shared sovereignty that existed in Latvia long before in accordance with the international agreements of Latvia. During the gait of adopting the law certain compromise with the *Latvian* Association of Local and Regional Governments (LALRG) has been reached by referring to the regulation of the subordination of the municipalities to ‘the Law of Self Governments’, still the further course of events shows that the fighting centralists use State Administration System Law as a flag both against the fundamental rights of the local governments and the human rights.

Overall, this period can be characterized by a term of Neo-Weberianism. The values of the previous period have been rejected in order to give way to unlimited growth of the bureaucracy power.

**Internal devaluation (2008–2016).** The crisis was caused by the international financial institutions that wrongly suggested combating inflation (Pukis, 2010). The commencement of the world crisis Latvia faced being in

already burdensome economic situation when the Scandinavian banks had slowed down crediting of economics. Therefore, deciding in favor of even tougher austerity seemed to be a logic continuation of the started reforms. The old EU member states felt enticement to utter Latvia as a pilot project for possible solution of the Greek problems.

The International Monetary Foundation (IMF) and the European Commission drove Latvia into debt quickly. Within couple of years Latvia reached 49% of the public debt compared to the gross domestic product started at 9%. The European Commission would not allow to use even the tiniest budget deficit for co-financing the EU funds absorption by forcing the government to sharply reduce the budget expenditure. As a result, the economic shrink in Latvia reached the extent never experienced in the world since the 1930s.

In such circumstances the central government and local governments, unwillingly though, had to return to the minimum governance policy.

The core opponent to the government at this period was the LALRG that suggested performing more active measures of facilitating the economics, immediate absorption of the EU funds at accelerated amount, more rapid heating of the domestic market and facilitating restructuring of the economics, putting productivity as the priority instead of the previous accent on the employment, rejection of such useless expenditures as financing of the mandatory state-funded pensions. As the main directions of the public administration reform LALRG suggested decentralization and deconcentration, resignation of overregulation, and reduction of the number of civil servants along with reduction of the regulation provided by the law and the regulations of the Cabinet of Ministers.

The ministers partly agreed upon these statements of position, still they could not bear the bureaucracy pressure. During the previous periods, the bureaucracy had already become an independent power as exercised both by the European Commission and the State Chancellery and the ministries.

That was why the direction towards a small and effective state administration was politically accepted along with intensification of the support for economics but the bureaucracy succeeded in compensating these decisions by centralizing and compensative measures as well as sabotaging the decisions taken by the Cabinet of Ministers.



While the rest of the population was experiencing decrease of wealth caused by the economic crisis, part of the nation elite was occupied with another matter – how by pleading the crisis to privatize those profitable state enterprises that were still owned by the state?

Due to the discords within the leading coalition, total privatization was unsuccessful. Also the matter of enhanced governance of the remaining state and municipal capital companies was being solved at the lowest pace possible and with recognizable difficulties. However, some decisions concerning privatization were successfully implemented, including the one for privatization the ‘Citadele’ bank thereby making Latvia dependent to the policy of foreign (mostly Scandinavian) banks. Latvia lost its possibility of the government intervention in the case of crediting in Latvia slows down and the capital is placed abroad.

In general, this period may be characterized by the tendency to return minimum governance along with disability to perform the needed reduction of regulation and decentralization.

#### 4.5. Organization of PA Functions

The signature elements of organizing the functions include the following: observing the principle of subsidiarity and proportionality in the relationship among the private sector, the local governments, the state, and EU; observing the principle of the local government (Council of Europe, 1985), the public powers right to property and entrepreneurship; and tendencies of concentration or dispersion. In accordance with the aforesaid tendencies and the governance models (sometimes with some inertia) also the forms of governance building changed.

**The first period (1990–1993)** model was featured by minimum state institution and decentralization. During this period the principle of subsidiarity was observed better than afterwards: communalization was the first stage of privatization and denationalization; core responsibilities for withdrawal of the Russian Army were entrusted to the local and regional governments.

By 1993, autonomy of the local and regional governments was developing. The financial autonomy was being implemented in two stages: first, by abolishing multi-staged budgeting (since 1992 the local government budgets

had stopped being a component of the regional government budgets; and the regional budget had stopped being a component of the state budget); second, by introducing a stable income basis along with founding a stable financial equalization system (since the budget 1995).

The administrative autonomy was established by eliminating the executive committees (since 1992 the ministries had no possibilities to release orders to the local government institutions or structural units, the local executive power was accountable to the local council only. The rights of local government to found institutions or enterprises to its own discretion were recognized.

The local personnel autonomy was not disputed, the state was not nominating any local government officials, allowing agreeing over only several officials (for instance, school principals).

In practical politics, a contest between the central power and the local governments was being played in terms of introducing a new judicial order, in certain cases, the voluntary initiatives brought forward by the local governments. Local and regional authorities outpaced similar decisions taken by the central government, i.e. the parliament or the Supreme Council, by months or years.

However, in this period the central bureaucracy was preparing itself for a revenge, and it ended up with centralization of Riga (1993-1994) and education field (1993). At this stage already, those hoping to establish the ruling elite were striving to direct the property transformation matters in a favorable way. Therefore, the privatization process was signed into about 20 various laws, thus creating an unclear and contradictory environment. This process was assisted both by the lawyers (who were founding their prospects of good revenue in future) and by the privatizers-to-be.

**The second period (1993–1998)** model is characterized by deconcentration in the sectors. Every single ruling political force was developing its 'own' economy, concept of the state being an enterprise was gradually spreading, ministries were divided and governance functions were handed over to the state-owned enterprises).

During this period, every ministry was separately elaborating its own administration model. For instance, the Ministry of Transport developed small scale industry departments with a small number of the employees while the main analytical and administrative capacity was being concentrated in the

enterprises ruled by the ministry. Such a system allows reaching high efficiency but it is subjected to the minister of the sector, and is not coordinated with the Cabinet of Ministers and other ministries.

An interesting example of fragmentation and decentralization is provided by the health care organization of the time. The primary and secondary health care systems in each region (26 units) were variously organized by the enterprises owned by the self-governments, and were called 'sickness insurance funds'. Not only the differences in nuances were present but different health care organization systems were simultaneously tested in different territories. The regional self-governments were competing over the most successful model. The tertiary health care system was organized by the Ministry of Welfare according to single principles.

The reforms of this period partially comply with the governance principles as set out by Max Weber:

1. *Arranging the functions of the officials and the institutions in accordance with certain restrictions* (Weber, 1947: 330):

One of the problems faced by the government during the reform was raised by the existence of powerful and independent local authorities. One possibility would be to recognize the administrative sovereignty (Council of Europe, 1985), the other – to perceive the local authority as a component of the state (thereby continuing the tradition of totalitarian state like during the period of Kārlis Ulmanis' authoritarianism and the periods of the German and the USSR occupation).

Weber does not link his bureaucracy theory to the doctrine of centralized state, since the bureaucracy is developed in favor of a cooperative group (state, local government, or large-scale private corporation).

When discussing in the Saeima the 1994 Self-Governments Law, a contest was taking place between those two concepts. The LALRG was offering to provide in a single part of the single law all the autonomous functions of local governments. Then any resident or entrepreneur would have the possibility to see an exclusive list of autonomous responsibilities of local government. Being afraid of the continuous growth of the local government's role, the legislators refused such a solution – a clear division of the state and the local authority's functions was not achieved.

Also the opposite – a list of state functions was not elaborated, thereby the factual situation occurring was that the autonomous functions of local and regional governments were ‘partly acknowledged’ but the legal status of the rest (delegated by the state) was disputable.

2. *Clearly defined bureaucratic organization based on the hierarchy* (Weber, 1947: 330)

This idea has never been fully implemented in Latvia as (except during the transition period), since only multi-party coalitions have been in power. In such a coalition the ministry that is run by a minister representing the party is used as an administrative resource within the rivalry among the coalition partners. Therefore, the competition over expanding one’s competencies cannot decrease.

Initially, also the power of the Prime Minister was rather conditional – basically he was no more than a chairman of the Cabinet meeting as the resources were governed by the sectorial ministerial bodies with a respective influence. Only later the coordination among the sectors was improving.

Two subjection forms were developed, i.e. subordination and supervision. As a compromise it was intended that the self-governments are subjected to a soft form of supervision that is embedded in the Self-governments Law (Saeima, 1994).

Thereby the government was seeking to establish a ‘single hierarchic system’ that, in its substance, contradicted the European Charter of Local Self-Government.

During this period a formal negotiation system between the Cabinet of Ministers and the LALRG was established. The consultations were taking place during entire year, and included negotiations with all the ministries and some crucial state agencies. Each session of such negotiations covered a wide range of matters, and resulted in signing about 20 negotiation protocols, including the core matters of the further reforms in the state and the corresponding sectors or industries. The procedure was concluded by the main document – the annual Protocol of Agreement and Disagreement between the Cabinet of Ministers and the LALGR wherein the main statement of positions of the both parties on the essential matters of the budget and reforms as well as a range of positions upon which agreement had been reached.

At the end of this period an ample centralization of health care (1997)

was performed, and the direct regional election was eliminated (1997). However, the regional governments were not eliminated due to the resistance demonstrated by the local governments (Latvia got indirectly elected regional councils by the local government representatives).

**The third period (1998–2002)** model demonstrated a wide establishment of agencies and a continuous privatization of the enterprises previously owned by the state and local government. Formally, the New Public Governance (NPG) was introduced but the result measuring system that would have been needed for evaluating the performance of numerous agencies was never developed.

Actually, many institutions of public governance (particularly those established before in the form of state companies) conformed with the concept of the NPG to a greater extent than those developed in accordance with the Public Agencies Law (Saeima, 2001a). By needlessly providing for the public agencies the financial governance procedure equal to the direct authority government institutions, whereas the very sense of these institutions was diminished. Notwithstanding the existence of numerous attributes of NPG, the Latvian public agencies turned out to be utterly inappropriate for an effective economic activity.

Several functional audits (the Ministry of Agriculture, the Ministry of Economics) were conducted purposing optimization of these institutions' performance. In the end of the period the State Chancellery decided to take the initiative to coordinate different sectors and optimize the civil servant work. The Department of the Policy Coordination was founded to develop a single policy of state reforms.

This period was characterized by the central government fighting against the cooperation amongst the local governments. The Law on the Administrative Territorial Reform was adopted (Saeima, 1998) wherein, by the pressure performed by the LALRG, cooperation was deemed equal to uniting. However, the central government would not withstand and was devoting further 10 years to conquering cooperation in any realm (Pukis, 2010).

**The fourth period (2002–2008)** model was characterized by a gradual elimination of the NPM components by addressing bureaucracy. Within this period a sharp growth of controlling and repressive functions was being observed. The Corruption Prevention and Combating Bureau was established, the

State Audit Office was becoming more active and working to a wider scope.

The foreign-funded civil societies (NGOs) were interfering with the state and the local policy, including the NGOs such as Delna, Providus and others. A certain witch-hunt atmosphere was introduced within small-scale non-governmental organizations along with the state control structures giving lots of talks about different offences but no real evidence was usually gathered. However, in some cases of corruption also verdicts on the quality were achieved.

Due to inertia, a wide range system of agencies and relevant legislation still existed in this period, which was composed of the laws and the regulations adopted by the Cabinet of Ministers so that the agencies would have something to do. Every ministry sought creating as many institutions as possible.

The endeavors to conduct a single policy of ministries were being continued. Every ministry alone was no longer allowed to improve its performance – it had to be done in a centralized manner under the leadership of the previously established Policy Coordination Department. Each ministry was required to elaborate a strategic plan for the respective ministry that was not a performance improvement plan for the institutions but were the development guidelines of the governed sub-sectors from the perspective of the corresponding industries.

During this period a compulsory administrative territorial reform was intensely being prepared. The government was gradually refusing previously adopted principles of the reform:

1. In 2003, cooperation ceased being seen as a form of the local reforms (the cooperation methods widely employed in France and Germany would not be allowed in Latvia);
2. In 2005, the section about establishing the regional self-governments was excluded from the law. The requirement of the subsidiarity principle was also excluded along with it;
3. During the reform all the local government were visited numerous times, and several uniting scenarios were discussed by granting the state block grant to each local government voluntary uniting, a total of about 150 million euros were spent on achieving this goal).

The reaction of the society to the reform stayed negative. In all the surveys performed in the period 1999–2009, the majority of the respondents

showed no support to the reform. The most of residents' trust to local politicians was given namely in the smallest rural and urban territories.

**The fifth period (2008–2016)** model has been characterized by further centralization and concentration, and by several attempts to reduce the state administration.

IMF, when granting the loan to Latvia, was in exchange requiring structural reforms. For this purpose, the national Functional Audit Commission was established (presided by the Head of the State Chancellery) which was supposed to manage the state administration minimizing procedure, and the Reform Management Group (chaired by the Prime Minister) which was working on the single structural reform plan, and particularly – on the reduction of the budget expenditures. One of the authors of this chapter was representing the LALRG with the rights to vote in both structures of the reform management.

The direction of the institutional reforms was uniting the agencies or incorporating thereof into the composition of the ministries. This badly influenced the regions as the management of the industries was concentrated in Riga by sharply reducing employment in the regions. In the previous periods, an even allocation of governance institutions along the entire territory had been one of the most effective instruments of the regional support. As a result, the number of nearly 200 state agencies was reduced to some dozens.

The local governments also had to decrease the amount of the services as their budget was radically cut. As the amount of the functions was not reduced, there were attempts to transfer them to a shortened working week so that no functional unity would be lost.

In the process of 'cutting' the budget consultations with the social partners were exercised. The Reform Management Group was initially composed of the Prime Minister and the Minister of Finances, one representative of the Saeima, and two representatives were sent by each of LALRG (Latvian association of local and regional governments), the Employers' Confederation of Latvia, the Latvian Chamber of Commerce and Industry (employers), and the Free Trade Union Confederation of Latvia (employees). Regarding the matters to be examined also other ministers, the President of the Academy of Sciences and the representatives of the Alliance of Non-Governmental Organizations were invited to the consultative meetings.

The social partners were submitting their proposals in the extent to which the budget expenditures should have been decreased per the industries according to the priorities of the crisis period. A request to execute such a division was offered also to the parties represented in the Saeima but the parties avoided the political responsibility included. The proposals of the social partners, after being discussed with and corrected by the government, provided the basis for cutting the expenses and minimizing the budget deficiency. Pursuant to these budget decisions the structures of the ministries were decreased as well.

In this period, following the initiative of the local governments, the matter of combating the normativism came into the political agenda. The State President (2012) also took the side of the local governments. However, the reaction on the part of the bureaucracy showed that the society was not ready for such a way of thinking. Although formally the ruling combat normativism was being fulfilled (plan was drafted and completed, reports were submitted), there has been no signs of a true wish to diminish the overregulation so far.

It is not possible to create a smaller state administration if overregulation has not been diminished at first hand. Organizations like the State Revenue Service, the State Audit Office, the Competition Council, the Corruption Prevention, the Combating Bureau and others are especially eager to increase the number of their employees and the amount of their functions. In parallel to this, a growing overregulation of the respective fields has been developing.

Following the local government election of 2009, the only institutions of some regional authority currently are the 5 planning regions. The planning regions have no more than some functions provided by the law but they still possess the main attributes of the regional government – an elected (even though indirectly through a two-step procedure) decision-making power, executive power is established by and accountable to the elected councils; rights to adopt normative acts of general nature, their own budget that they adopt on their own discretion, rights to issue administrative acts, boards established by the law. The legal status of the planning regions is regulated by the Regional Development Law (Saeima, 2002).

Upon the reform concerned the number of the local governments has been reduced by five times compared to the number of the local governments in the beginning of the reform. Currently, there are 110 municipali-



ties (local governments with attached rural territory) and 9 republic cities (local governments with no attached rural territory). The competencies of the local governments are the same, except for the city of Riga which has some additional specific functions of the capital.

The functions of the regional governments were divided amongst the local governments and the planning regions (Pukis, 2015). In order to preserve the illusions that some decisions may be taken in the cities and the parishes of the pre-reform period, the institutions of the municipal city and the municipal parish authority have been established. These authorities have been authorized to have less functions year by year, and they were made accountable to the local governments administration.

The novelty of this period has been the aspirations of the central governments to split the local governments by opposing the interests of different local governments and acquiring some political dividends at the following local or Saeima elections. On the grounds for such conduct the concept of development centers has been employed. In the national planning documents, the local governments have been divided in several groups. 9 republic cities have been presented with the higher status, thereby creating certain advantages for these governments in receiving the state investments (from the EU funds actually). 21 municipalities with the regional development center (previous city as centre of post-reform municipality) have been presented with the intermediate status, and also these local governments have some advantages granted. Finally, 89 municipalities have been deemed non-perspective and to receive the state support to a much smaller extent.

The division into such categories is based on the political motives. 6 out of 9 republic cities are the receivers of the financial equalization fund. The remaining 3 receive funds according to the continuous income per capita, and pursuant to the execution of the budget for 2015 were placed as 4th, 11th, and 18th on the list. 9 local governments of the first ten are formally – if according to the continuous income per capita – and supposedly non-perspective ones. Real sustainability is opposite to that which is formally recognized by the central government.

However, having implemented the active policy of ‘divide and conquer’, the leading coalition managed to compensate a total defeat in the local government election of 2013. It must be indicated that even though the Pe-

ople's Party was the main organizer of the administrative territorial reform at its final stage, it was dismissed from the Saeima in the following election and has eliminated itself by now.

It must be also indicated that Latvia was not the only state where the crisis was employed by those backing centralization. Such tendencies could be observed in most EU countries.

#### 4.6. Civil Service

**The content of the First period (1990–1993)** was best complied by non-existence of a special status of a civil servant. The USSR nomenclature was losing its powers, all the employees entered the labor market as being equal. Initially, neither the state nor local government executed massive redundancies of the USSR nomenclature, save the active supporters who were actively positioning themselves as opponents of the Latvian national independence.

Most of the professionals were preserved in the service. It regarded even the USSR era structures like State Security Office, the Police, courts, and the Prosecutor's office.

Along with eliminating of the executive committees and establishing the boards (the executive committees were actually subjected to the ministries, the boards – only and exclusively to the council), specialists of non-nomenclature ranks got involved in the local governmental work: teachers, scientists, doctors, engineers who invested their professional experience to complete the local authorities.

Although the culture of collegial decisions was being preserved, the individual responsibility of a state administration employee was growing at the time. There were no longer any restrictions to be a member of a political movement or a political party.

**The reforms of the Second period (1993–1998)** created the civil service that has been developing ever since. The reform conducted by the Ministry of the State Reforms in charge of Māris Gailis was partially based on the Max Weber's principles like the following:

1. *Specialization in certain fields of competency and labor distribution* (Weber, 1947: 330): The initial reform was designed on the basis of universalization not specialization. A civil service of the 'mandarin

type' was developed that did not envisaged specialists of particular fields but universal experts of legislation and rules. The ministries also initially had a large number of functions that were subjected to no specialization in the beginning. As an exception should be regarded any termination of reforms started in the previous periods (for instance, the Privatization Agency that was established in 1994 as a state-owned joint stock company right away).

2. *Separating the property rights of the resources used in the administration from the property of the officials* (Weber, 1947: 330): Such an order did not need to be invented as it already existed through the entire occupation period. Also dependence of remuneration on the performance is to some extent linked to this choice. In general, the concept that the officials' remuneration to be dependent on their performance was rejected in Latvia.
3. System of the remuneration based on the ranking (Weber, 1947: 331): The initial concept was to determine different remuneration for different ranks (which was done via adoption of the regulations issued by the Cabinet of Ministers), still the wish to develop the civil service ended up in a contradiction with the financial capacity of the state budget. The system of the remuneration according to the ranking was only partly realized as when adopting the recurrent state budgets, they were always short of means. An essential part was played by populism. In order to win the election, it was preferable to pretend that the remuneration to be received from the state is as low as possible. In Latvia, the salaries of the Prime Minister, ministers and the *Saeima* deputies have always been lower than in the neighboring countries. It also affected remuneration of the other state officials.
4. *Assigning to the office and promotion along the gait of the carrier is supposedly based on the merits not on the prejudice or favor* (Weber, 1947: 331, 333): Initially, a system was designed wherein promotion would have taken place once an individual would reached the next of 13 stages (a civil servant candidate + 12 stages) – a carrier civil service was being designed. To perform evaluation and training two separate institutions were established: the State Civil Service Office and the State Administration School.

5. *Civil service as the individual's full time and lifetime occupation, a civil servant may retire from the service but his / hers dismissal is possible only due to a severe offence* (Weber, 1947: 333): The initial concept was designed in close compliance with this principle. Furthermore, in the Preventing Corruption Law (Saeima, 1995) the first restrictions for combined appointments were determined by being applied to the politicians, judges, and employees of the local governments as well. A term 'state official' was introduced which has a different meaning and sense in Latvia than in other countries. This term refers to a prohibition of the combined appointments.

The prospected system was not fully introduced. When planning the state budget for developing the civil service, there was a money shortage. No examinations were introduced (except for the first time when the civil servant candidates were accepted). No further rankings were attributed. The envisaged package of social guarantees was not assured. The local and regional governments succeeded avoiding the civil service as the state civil service itself was financially undernourished.

The regulations having the force of the law issued by the Cabinet of Ministers upon the disciplinary liability of the civil servants were introduced during the break between the Saeima sessions (Cabinet of Ministers, 1994). Pursuant to these regulations, the actions of a civil servant (a civil servant candidate) are unlawful in case if his or her actions (action or inaction) contradict the legal norms, service instructions, or particular service orders. This decreased the personal responsibility while strengthened the role of a civil servant seen as a little screw in a joint mechanism. In the end of this period, the number of service employees was significantly decreasing as it was more profitable to enter the employment under a regular employment contract.

**During the Third period (1998–2002)** inequality was developing. At a low basic salary scale the deputy heads of the departments, heads of divisions and departments, state secretaries and their deputies were exercising both the elaborations of the first period (the possibility to fulfil political positions in the councils of the companies owned by the state and the local government), and recently introduced management agreements (for performing a particular assignment) in accordance with the NPG procedure.

As the result, the remuneration of the senior officials normally exceeded

the ones of the Prime Minister and ministers, but the assistants and junior assistants in terms of their remuneration were not far from the minimum wage in labor market. As no preconditions linked to the achieved results had been introduced in the system of governance, also the performance agreements were concluded rather formally. The employees would rather perceive them as a pay rise, not as real remuneration for the result of fulfilling which some essential changes or improvements should be achieved. In order to renovate the civil service to some extent, a campaign of inventory was performed in terms of redefining the positions of the civil servants. The personnel departments of the ministries were put to labor in order to find grounds how various positions could be incorporated into the civil service.

During this period a discussion took place concerning the matter of the scope of the civil service. There was a proposition submitted to develop a small civil service of a high quality that would have included mainly the positions of managers, and may have been expanded over time along with the budget potential. There was also another concept under discussion envisaging two levels, i.e. the elite civil service and the regular civil service. However, the choice was made in favor of a large and poorly motivated civil service.

During this period also a conceptual change took place – the carrier civil service was replaced with an open civil service. With such an open civil service a free movement of the employees from the private sector and their return to the private sector was made possible. This complied with the need for partial replacement of the civil servants, and also foreign investors needed some preferential procedures and potential of a higher yield in Latvia.

Contrary to the traditional approach where the basic model was serving from the very bottom ranking so that, along with the term of service, the top rankings may be reached, in the open civil service it became possible to start by having a certain position in the private sector, then spent some time in the civil service position, then continue with a position in the private sector again, and so forth.

Bigger than ever, the attention was paid to the extent of specialization. If in the traditional model the basic skill had been participation in the governance process as precisely fulfilling the internal and external administrative acts, then in the open civil service much bigger weight was attributed to the specific knowledge of the field.

The system could have been introduced to a much wider extent if not for the split that had been occurred between the remuneration of the employees at similar positions in the private and public sectors. At the end of this period, the Law on Corruption Prevention and Combating Bureau (KNAB) was elaborated and adopted that introduced a new stage of quality as an instrument for combating the political (economic) opponents.

**During the Fourth period (2002–2008)** basically all the previously started processes were continuing even though a gradual deviation from the NPG principles was taking place year by year. After the amendments made to the Public Agency Law (Saeima, 2005), the performance agreements and the administrative agreements were terminated. The agencies would be further administered according to their strategies but no new administrative agreements were concluded any more.

The work was being continued under stricter requirements to be applied to the civil servants simultaneously restricting any possibilities to motivate the employees. A new version of a more detailed Law on Disciplinary Liability of State Civil Servants was adopted. It envisaged several types of offences, whereas the civil servants may have been punished if they would perform any actions against the procedure set in the normative acts – by violating not only external but also internal normative acts. As a disciplinary offence was nominated non-fulfilment of official duties, disclosure of an official secret, or unauthorized disclosure of any other information; loss of, damage of property or loss of money; incorrect attitude towards a person; inappropriate and disrespectful behavior during the time period when official duties are not fulfilled; and non-conformity with political neutrality.

During this period the new KNAB commenced the witch hunt; successful criminal matters were rarely instituted, and still announcements were often published that casted shadow over the state administration and the local governments.

For the influence over the KNAB a rivalry occurred among the political parties seeking the governance acting in their interests. At the time, the KNAB would be involved in internal intrigues and widen the corruption combating direction of its operations by focusing particularly at the conflicts of interests not corruption.

Endeavors to include the local governments into a single civil service

system occurred, despite the fact that the local governments succeeded in pertaining solidarity for the sake of autonomy of their personnel.

**During the Fifth period (2008–2016)** the very idea of the civil service has been discredited as at the beginning of the period, and too much of influence was handed over to the IMF and the European Commission. A structural reform has been imitated that actually turned out into mechanical pruning of the civil service. The reliance on the promises given by the public power has been lost. At the end of the period a way out from the situation, where no agreement seems possible due to a competition among the parties of the ruling coalition, was sought for.

The world economic crisis made us look critically at the developed system of the civil service on its own terms. Since 1993, there have been talks about a bigger stability as the reason for joining the civil service. Although a civil servant may have received remuneration that was for 20% lower than an employee at a similar level in the private sector, the former had a guaranteed employment and a higher social security.

The conduct of the Latvian government utterly erased such hopes. When reacting at the IMF requirement to execute the structural reforms, the government mechanically decreased the number of the civil servants instead of burdening itself with restructuring the economics. It turned out that an employee of a private enterprise was more protected than a civil servant. This example was also often followed by the local governments in respect to their employees.

From January 1, 2010, the following articles were excluded from the Law on the State Civil Service: 1) allowances in case of injury of a civil servant and in case of death of a civil servant or his or her family member; 2) allowance in the case of birth of a child; 3) compensation to cover travel expenses; 4) allowance in connection with dismissal from a civil service position; 5) supplement for the performance of additional duties; 6) supplement for the performance of office duties under circumstances of increased work intensity; 7) improving qualifications and covering training costs; 8) study leave. The respective regulation was moved to the Law on Remuneration of Officials and Employees of State and Local Government (Saeima, 2010) where the previously available advantages were either excluded or essentially decreased.

The law on a single remuneration that was adopted during this period has eliminated all the NPG methods in the personnel management. If the sta-

te and the local government are managed like an enterprise, there must be the possibilities available for motivating the civil servants through more diverse ways that would have correlate with their input in achieving the goals of the respective organization (Vorončuka, 2003). The single remuneration law determines that a bonus may be paid no more often that annually and no bigger that up to 75% of the monthly salary. Such a degree of motivation shows no proportionality to the significance of those matters often solved on the daily basis by the civil servants and the employees of the local governments.

A new concept of the civil service was elaborated, and the new State Service Law draft (Cabinet of Ministers, 2014) provided such qualities of 'post-bureaucratic civil service':

- Equalizing the employment conditions for the civil servants and the state administration employees by granting an essential role to the private sector experience in development of the carrier and labor remuneration system;
- The labor remuneration system gets linked to the work performance by a wide use of the performance assessment;
- Open competitions for any position;
- Flexible employment conditions;
- Delegating the duties to direct supervisors.

The performance would have been assessed according to single principles applied both to the civil servants and the employees as well as mobility would have been assured (transfer in favor of the interests of the state). The envisaged model of a single employer gave an impression that one group of the ruling elite was trying to manipulate another. Therefore, implementation of such a model has been postponed for an unknown period, and the law draft was not promoted in the Saeima.

#### **4.7. Administrative Process and Procedures**

The change of public administration models was accompanied by essential transformations in the provisions of the administrative procedure. The administrative procedure is an essential component of the public administration model; its shape is variable in compliance with the interests of those groups that are seeking their goals and are dominating the society at the time being.



**During the First period (1990–1993)** the administrative procedure was not formalized within the institution, and a democratic form of principles of the USSR era was observed (the content had changed by reinstated pluralism and completely cancelled the possibility of a single party dictate). In court, the administrative matters were considered on the competitive basis according to the civil procedure. Initially, it was believed that the public power on the one hand and an individual on the other should be set as equal conditions – the same principles should be made clear to both, and the same documents should be available to both. The internal procedure in the institution was nothing but an auxiliary instrument to ensure balanced relationship between the public authority and the individual.

**At the beginning of the Second period (1993–1998)** the Minister of Justice, Egils Levits, was trying to introduce a new administrative procedure according to the German model but he did not succeed in overcoming the resistance of an interest group of lawyers, therefore the administrative procedure was introduced only in the state and local institutions but in court the civil procedure was preserved. The Law on the Constitutional Court was adopted providing the examination procedure of the primary and secondary legislation by initially allowing submissions to a narrow range of applicants only. It was believed that the effective legislation was too contradictory but the capacity of the judges and the state administration employees was insufficient. The administrative procedure was divided into two parts, i.e. in the institutions it was operated ‘in a new way’ (Cabinet of Ministers, 1995) but in court ‘in the old manner’.

**During the Third period (1998–2002)** the new Administrative Procedure Law was adopted introducing a single bureaucratic order in court and in the institution; an individual who was competing against the local government and the state lost his or her ability to compete as potentially his/her opponent would be judged by a higher quality within a purposefully designed system of administrative courts. A shift from the concept of rule of law to the concept of state of law was an important milestone during this period. In the lawyers’ communities, it is described as a rapprochement with a legal and institutional framework of Continental Europe contrary to British Commonwealth (Westminster) system. It is essential to provide that the principle of proportionality was applied to the administrative procedure

only, not to designing institutions (Pūķis, 2010) – by naming this principle differently to the principle of the institution development and competency in the primary legislation of the EU. The right to proportionality was named ‘the principle of commensuration’ (following the German terminology) but in the Latvian versions of the EU legislation was named ‘the principle of proportionality’ (following the English and French model).

**During the Fourth period (2002–2008)** the hierarchy in relation to the administrative procedure was clarified, and it was recognized that in the local government there was no higher instance than the local government council and a higher status of the hierarchy after the council was reserved to the court (the ministry was supposed to be a higher instance only in case of delegated competencies). However, the bureaucrats of the ministries and even the ministers were seeking to violate this procedure.

During the previous period the adopted Administrative Procedure Law had prepared the grounds for a comprehensive bureaucratization. In the new version of the Administrative Procedure Law (Saeima, 2001) a provision was elaborated that provided the grounds for a continuous and stable growth in the number of lawyers. It followed from the provision that an administrative act should be drawn in writing and should have a mandatory substantiation by an external normative act. This norm provided a continuous escalation in the amount of the regulations issued by the Cabinet of Ministers and the binding regulations issued by the local governments thereby inducing a dynamically growing bureaucratization.

The Law of the State Administration System that was adopted at the beginning of this period also facilitated bureaucratization, concentration, and centralization. Significantly enough, among the basic principles of the state administration the principle of subsidiarity was at least mentioned opposite to the principle of proportionality that was not mentioned at all. This also conforms with the lack of understanding over the significance of this principle when trying to copy the procedures characteristic of the German system.

Within this stage the matters of responsibilities of the civil servants and the institutions were clarified, and the procedure established how to differentiate the responsibility of the state from the responsibility of the local government – along with that it was also specified from which budget the compensations would be paid in case of wrongful actions. As it had been purpo-

sefully arranged that autonomous competency of the local governments was not separated from the competency delegated to the local governments by the state, then the court was still facing difficulties in separating those. From the existing legal nihilism barely any function of the local government was correctly provided in the law. Therefore, in case of doubts over the competency to which a particular offence serves, it would be paid from the state budget not from the one of the local government.

**During the Fifth period (2008–2016)** the administrative procedure has not been changed but there have been ongoing discussions in two directions: 1) how to develop the public services system (e-services, feasibility limits of a single supervision), and 2) whether certain controlling and repressive structures are entitled to establish a separate punishment system that has no connection to the administrative procedure.

The EU budget was applied to implement a project on the public services. The main outcome of the project was a single classification of public services involving both the services provided by the state and those provided by the local governments. The outcome has been used to complete the Latvian e-Government portal [www.latvija.lv](http://www.latvija.lv). By developing these outcomes, a novel draft of the Law on the Public Services was prepared and supported both by the Cabinet of Ministers and the LALRG but it was blocked by an interest group of lawyers. The lawyers perceived wide introduction of e-services and simplification of the procedures as the direct threat to their interests.

Particular objections were raised by offer of the ‘silence – agreement’ principle: in case a public government institution has not replied to a proposal, the proposal is agreed. In order to prevent any aspirations to diminish the administrative burden for the entrepreneurs and the population, the groups of lawyers and civil servants are referring to the norms of the State Administration System Law (that was criticized by the local governments both during its drawing and afterwards) (Pūķis, 2010) that is facilitating centralization and concentration, and is not following the principle of proportionality.

In order to foster their influence during this period the State Audit Office has been trying to acquire also the rights of the repressive structure. It has been offered to apply a norm to the civil servants and the employees of the local government, so that an external controlling institution is entitled to apply punishments for the aforesaid employees contrary to the opinion of the direct

supervision and by interfering into the procedure of the personnel management. The Competition Council has already acquired such a competency, now it is seeking rights to exercise double actions of other state institutions and assess whether it is profitable to establish capital societies owned by the state or by the local government. During the crisis, the Cabinet of Ministers decided to develop 'a small and efficient' administration. As in all the countries, the bureaucracy would not accept that, and has been working in order to make the word 'small' disappear from all the future state policy documents.

#### 4.8. Conclusion

1. After 1990, the public administration reform in Latvia could be split to five stages. Each stage has its leading interest groups that have their own objectives. The form and scope of the public administrative reform on each stage was determined by the competition among groups' interests.
2. The first stage (1990–1993) could be characterized as the period of transition from the totalitarianism and centralized planned economy to pluralism and market economy. During this period, the interests of Latvian people were determinative. Model of minimal governance was chosen as the tool for achieving dominant objectives during this period (minimal legislation and minimal administrative structures); it was complemented with an extensive decentralization. A significant part of the public power was transferred to the self-governments through fiscal, property, administrative, staff, and political decentralization. The second stage (1993–1998) could be characterized as a pseudo-restoration, on this stage, the renewal of democratic and free public power constitution of the period (1918–1934) was declared. Newly developed national elite's interest to multiply wealth by participating in the process of privatization and denationalization was determinative in this stage. The national elite was developed from a part of the former activists of the Popular Front of Latvia, a part of the former nomenclature of the USSR time that was timely redirected, and a part of Latvian emigration diaspora that returned to motherland to participate in the assets redistribution and division. Traditional public administration model with features of Max Weber's bureau-

ucracy was chosen to achieve the dominant objectives of this period. The strategy of “state of law” development and over-regulation was chosen that allowed to make legal environment less clear and privatization more successfully. In frames of the pseudo-restoration, there were attempts to implement centralization through the administrative-territorial reform. Because of the self-governments’ resistance centralization was implemented only in the city of Riga where only one self-government instead of previous seven was established.

3. The third stage (1998–2002) could be characterized as the New Public Management (NPM) period, when a list of the NPM elements were implemented, and a part of related to NPM workpieces from the previous period was distorted. The interests of the “foreign investors” (from Russia and Scandinavia in particular) were determinant during this period. The investors beneficially repurchased properties and enterprises that had been privatized in the previous stages. Additionally, pre-established political elite was interested in getting rid of the previously obtained properties and deploy the capital to offshore zones. In order to fulfil these tasks previous period bureaucrats should be partially replaced. At that time, the New Public Management Theory, a new global paradigm in public management, was chosen to fulfil the replacement.
4. The fourth stage (2002–2008) could be characterized as a period of entering NATO and the EU, when public administration was stepping back in the development implementing features of the neo-Weberianism. This period was determined by the interests of the “old” EU member states and the American entrepreneurs in order to reallocate assets and powers/dominance. A change to reallocate the dominance to both political parties and civil servants was partly needed. Emphasis was placed on strengthening the repressive structures and its dependence on the new ruling party’s impact (State Audit Office, Corruption Prevention and Combating Bureau, etc.). The fifth stage (2008–2016) could be characterized as a period of internal devaluation. The international financial groups and the “old” EU member states’ interests were determined on this stage. The mentioned parties were carrying on compensations from the taxpayers’ money to banks and insurance companies, did not allow elimination of the state compulsory funded

pension, and triggered development of national economy. Latvia had become a proving ground for the Greek rescue, and therefore the deepest world financial crisis since 1930 was organized. The local political elite started a competition to privatize profitable enterprises owned by the state and self-governments during this period. Because of the financial reduction, attitudes towards public administration and, partly, return of the minimal regulation model needed to be changed.

5. The change of the public administration models was accompanied by significant changes in the organization of the functions. The model of the first period (1990–1993) corresponds to the minimal state institutions and decentralization. During this period, the principle of subsidiarity was implemented at its best, communalization was implemented as the first stage of privatization and decentralization, and the main elements of the economic structural policy were entrusted to the self-governments: The model of the second period (1993–1998) corresponds to deconcentrating in the sectors, i.e. each allowing political force created its “own” administration, idea about the country as an enterprise was progressively spreading, ministries were divided among the parties, and administrative functions were transferred to the state-owned enterprises. At the end of the period, an ambitious centralization in health care was implemented as well as direct regional elections were cancelled. However, because of the self-governments’ resistance, elimination of the regional self-governments failed. The model of the third period (1998–2002) corresponds to a wide development of agencies, and continuation of the privatization of the state-owned and self-governments’ enterprises. The NPA was formally introduced but the performance assessment system that was needed to evaluate performance of the various agencies has not been created.
6. Paradigm shift in public administration was accompanied by a significant change in civil service. The first period (1990–1993) model best corresponded to the public servant status alignment to private employee status, which made it possible to achieve both flexibility and high efficiency. During the second period (1993–1998), a traditional Mandarin system (career civil service) was created and government unsuccessfully tried to extend it to municipalities. Self-governments mana-

ged to maintain the staff autonomy. Due to a lack of funds, the plans of the second period were only partially fulfilled. During the third period (1998–2002), a change of the concept of civil service was prepared, which better corresponded to the ideas of the New Public administration. Career civil service was replaced by an open civil service. A significant and broad exchange was seen between public and private sectors, open competitive senior official selection was introduced. Conflict of interest restrictions was developed, which had a negative impact on the elements of the new policy. In the fourth period (2002–2008), the previously built system evolved by applying the civil service borrowed from the New Public Administration within the framework of neo-Weberianism model. Bureaucracy increased and became affected by overregulation and double control, which did not allow raising wages for a long time. In the fifth period (2008–2016), the organization of civil service procedures as set out by previous periods continued. During the period of internal devaluation, a unified system of remuneration was established, which was extended to the self-governments as well. This period is characterized by a high concentration of institutions, worsening the situation in the regions. A new State Service draft legislation was developed, which further liberalized the open civil service model. Political forces failed to find consensus on the new model.

7. Shift in public administration models was accompanied by significant changes how to ensure administrative process. Administrative process in the institution was not formalized during the first period (1990–1993), and a democratic form of the Soviet time principles was considered (content was changed by restoring pluralism, and completely abolishing the possibility of one-party dictation). Direct administrative cases were examined on competition basis in accordance with the civil procedure. During the second period (1993–1998), the Minister of Justice tried to introduce a new administrative process based on the German example, however he failed to overcome an interest group of lawyers' resistance, therefore the administrative procedure was implemented only in case of the state and the self-government institutions, in case of the court, the civil procedure remained. The Law on the Constitutional Court was adopted that determined the procedure

of the examination of the primary and secondary legislation initially allowing only a narrow range of applicants to submit the claims. During the third period (1998–2002), a new Administrative Procedure Law was adopted that presumed introduction of a single bureaucratic procedure for the institutions and the court. Those, who were litigating with the state or the self-governments, lost the opportunity to compete at the same time potentially receiving highly qualified judges from the specially created system of the administrative court. In the fourth period (2002–2008), the hierarchy of administrative processes was determined, and it was acknowledged that there was no higher instance of self-governments than a council of the self-governments, and the court had the privilege to participate in the examination on the next degree after the council (a ministry was considered as a higher authority only in case of the competence that was delegated by the state). However, bureaucrats of the ministries and even the ministers tried to violate this procedure. In the fifth period (2008–2016), the organization of administrative procedures remained the same as in the *previous periods*.

8. In case of Latvia, the external factors of public administration development (membership in the EU, interests of Russia or the USA, impact of the international financial organizations) had the secondary meaning. It is important to emphasize that at least for the shared competences the principle of proportionality (minimization of the EU bureaucratic involvement) was successfully maintained in the EU primary legislation. Domestic political needs were primary to the forms of public administration organization, which were the tools for ensuring domestic interests. Various concepts of public administration like good governance, smart governance or corporative governance were applied to support domestic policy objectives. Transparency and anti-corruption concepts were mainly used for inter-party fights to compromise the political opponents and emphasize the excellence of their own reputation.
9. Normativism (over-regulation) and excessive promotion of bureaucratization characteristic for the EU were not able to respond flexibly to the global processes, and did not contributed to the popularity of the methods. Hence, each country should seek ways to prevent the disadvantages that the EU public administration has.



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## 5. Public Administration in Poland: Reforms and Systemic-Organizational Issues

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### 5.1. Introduction

We should support Kasiński's thesis (2011: 215-226) that modern concepts of public administration are based on the concept of public service, rather than public authority and on the change of its fundamental role, which is to be not bureaucratic governance, but management which is based on completely different principles. Therefore, greater than ever importance is attributed to non-legal economic, political, organizational determinants of administration. In general, a new image of public administration is promoted in which its activities are only slightly determined by law, although it is still formally bound by the constitutional requirement to respect the generally binding rules.

Another trend in the development of modern public administration is associated with the process of its Europeanization. This pertains primarily to the member states of the European Union and is partly linked to globalization processes (Kasiński, 2011: 215-226). It is determined by the acceptance of patterns of modernization shaped in non-European, especially Anglo-Saxon, administrative systems. On the other hand, in the process of Europeanization of administrative law and public administration there is an approach based on the assumption that administration modernization should be based mainly on European tradition and experience, and concepts and programs outside Europe can be used only to a limited extent. This pertains, for example, to strengthening the principle of subsidiarity, primacy of the territorial system over the sectoral one, limits of discretionary decisions, access to public information, network connections, horizontal rather than hierarchical, social dialogue and civic participation, and specific ethical standards in administration (Kasiński, 2011: 215-226).

It should be noted that the Polish public administration system is generally based on the latter concept. This is caused by the necessity to reform public administration determined by process of European integration, fulfillment of the EU law requirements in various areas of administrative activi-

ty, and acceptance of values and principles shared by the administrations in different member states (Kasiński, 2011: 215-226).

The restoration of the democratic system in 1989 in Poland triggered the reform activity in virtually all areas of socio-economic life (Lutrzykowski, 2009: 10-25). One of important areas of these activities was public administration, the shape in which reflects the socio-political system in the country. Thus, in the early 1990s the first stage of public administration reform in Poland began. The result was mainly visible in the introduction of local self-government at the municipal level, as the basic unit of major division of the state. This period initiated a process of reforming Polish public administration, which has continued to the present day.

M. Kulesza (2000: 1-2) rightly points out that „Poland is the only country of Central and Eastern Europe, in which today a successful and profound transformation of the administrative system is already a fact belonging to history.“ This, of course, does not preclude the observation that we have many problems and difficulties with bureaucracy and other administrative pathologies, including corruption (the „normal,“ but also the political one), ignorance, arrogance, waste, etc. Nevertheless, these are just ordinary challenges always faced by political and state elites, today in Poland as well as in other contemporary democratic countries. The restoration of local self-government is considered one of the most important and most successful achievements of the Third Republic, thus perpetuating Polish sovereignty as a civil state. This achievement was accomplished primarily through deep transformations of the public administration system by means of introduction of a new legislation. The reforms broke three major monopolies of the totalitarian communist state: the political monopoly of a single party, the already mentioned principle of unified state power, and the principle of a single fund of state property. It was followed by decentralization of state administration and state finances. This has led to the profound reconstruction of the public sector – including, in particular, the principles of political governance and the rules of organization, and delivery of key public services and administrative tasks (including – the police ones). This entails significant transformation in many areas of public life (Kulesza, 2000: 1-2).

This chapter contains an analysis of the process of the public administration reform in Poland. The attention is focused on the genesis of the formation of public administration in respective periods of Polish statehood. It

also contains a presentation of systemic and organizational issues of public administration operation in the current era. The conducted analyses concern, in particular, the assumptions, objectives and principles of administrative reforms after 1989; the structure, organization and function of public administration in Poland; public finance; analysis of the process of reforms of the civil service; manifestations and instruments related to the openness and transparency of public administration.

## **5.2. Theoretical Issues of the Public Administration Reform**

A reform of public administration is a process involving a set of activities and instruments undertaken by government administration bodies, aimed at improving the efficiency and effectiveness of the administration which, in consequence, is supposed to lead to an improved quality of life of a society (Sowiński, 2001: 227-236). A reform of public administration in a democratic state should not be an end in itself because it frequently leads to the decentralization of administrative structures and their tasks and competences (Wright, 1997: 551-558).

According to the United Nations Development Program (UNDP, 2011), public administration reform can be very comprehensive and include process changes in areas, such as organizational structures, decentralization, personnel management, public finance, results-based management, regulatory reforms, etc. It can also refer to targeted reforms, such as the revision of civil service statute.

We can point to several types of a public administration reform. Jos C. N. Raadschelders (1994: 4) distinguished three main types: 1) structural reforms pertaining to changes in the existing organizational, administrative, and public structure. They may take a form of territorial reforms, or functional reforms, pertaining to modification of the scope of tasks and competences. Structural reforms can be of a mixed nature, that is, both territorial and functional. The second type are reforms, the aim of which is to change the nature of relations and relationships between organizational units within the public sector. They are connected primarily with realization of the principle of decentralization and de-concentration of tasks and competences. The third type of administrative reforms are the reforms of a system. They pertain to changes in public administration, taking place

in the framework of the transformation of the political system as a whole.

In turn, Vincent Wright (1997: 551-558) distinguished, first of all, reforms undertaken as a result of the emergence of phenomena causing the pressure towards modernization of the political system associated, for example, with the European integration. The other type he pointed to are reforms arising from the need to respond to emerging social or political events, such as for instance, the reorganization of public administration caused by, for example, the unification processes in Germany.

Discussing the basis of classification of public administration reforms it is worth presenting the division made by Ryszard Herbut who distinguished the following types of reforms: 1) reforms connected with the market, which are characterized by the departure from the traditional model of administration based on hierarchical relationships, in favor of administration applying market principles; 2) participatory ones, whose goal is to expand the circle of actors involved in the decision-making process and providing them with the impact on service quality; 3) deregulatory reforms, which are associated with organizing administration as a separate sub-system (Rajca, 2010: 199-200).

Taking the above into account, we witnessed in Poland in the last decades a so-called diversified system of administrative reforms. Between the years 1990 and 1998, „big macro reforms“ as well as structural and systemic reforms were carried out related to the creation of new territorial units and new administrative divisions and functions. In turn, during the 1990s, the reforms in individual areas of public administration were implemented, such as the civil service, administrative jurisdiction, public participation, instruments of public management, or public finances.

### **5.3. Historical Context of Formation of Public Administration in Poland**

Decentralization of state administration became one of the main objectives of the system transformation in Poland after 1989. It was assumed that it would lead to building civil society based on the principle of subsidiarity, i.e. the reconstruction of local government and broad activity of society. The concept of self-governing municipalities was implemented very quickly, already in 1990, but the second stage of the reform assuming the introduction of self-governing districts and provinces was quite difficult to achieve in the socio-

political reality at that time. Districts and provinces appeared on the map of Poland only in 1998. This process will be shown in the following discussion. It should be noted, however, that a complex process of building public administration in Poland has exerted a big influence on this process, just like the fate of the Polish nation, deprived of its statehood for 123 years, has been complex.

It is generally assumed that classical principles and institutions of public administration developed in the nineteenth century, and in the next century, they were enriched by new solutions and only partly modified, primarily due to the consolidation of new views on the position of the citizen and changes in management techniques (Izdebski & Kulesza, 1999: 57). Meanwhile, Poland lost its independent existence in 1795 and regained it after the end of World War I. Short functioning of Polish administration in the interwar period was interrupted on September 1, 1939. After World War II, Polish statehood had limited sovereignty, and its administration was modeled on the political system of the Soviet Union. This raises the question of what historical experiences could have been used in the process of transformation of the political system in Poland, including administration, after the year 1989.

Historians of public administration assume that the period of public law State – public law Monarchy (1320–1764) played an extremely important role in shaping the Polish state. The enthronization of Władysław Łokietek (the Short) in 1320 was an expression of not only the revival of royal power but also the unity and sovereignty of the Polish state. This meant the rejection of the patrimonial character of the monarch's power and acceptance of the construction of the Crown of the Polish Kingdom. The powers of the Crown were associated with the state and not with a particular ruler, which meant that the leading role was played by the public law factor and not by private law.

It should be emphasized that in this period, i.e. in 1569, a real Union with Lithuania was concluded in Lublin. A federation Republic was founded with a common monarch, common parliament, common foreign policy, and monetary system. The tradition of this statehood of the two nations is still alive in Polish society. How did administration function in the state at that time? It can be generally divided into central offices, local, and land offices. The first group encompassed those who later obtained the title of ministers and included the Chancellor and Vice Chancellors, the Treasurer of the Crown and the Treasurer of the Court and the Grand Marshal of the Crown and the Court. The

Chancellor and Vice Chancellors administered the royal chancellery. Their task was to conduct diplomatic correspondence (the nucleus of the Ministry of Foreign Affairs). Moreover, letters concerning internal affairs and royal privileges passed through the chancellery. The main book of the chancellery was the Crown Register. Identical offices were established in Lithuania, and the book of that chancellery was called the Lithuanian *Metrica* (Ćwik, 2002: 50).

It is worth noting that the territorial division into provinces and districts, and the offices of the province governor and the district governor were formed at that time, which in the self-government version will determine the public administration sub-system in Poland after 1989. The province governor directed officials in provinces. Royal officials in the area became district governors, whose offices, in Poland, were popularized by the king Władysław Łokietek (the Short). It should be added that in Poland at that time the local government administration sub-system began to take shape, i.e. municipal councils – made up of councilors and equipped with administrative, judicial, and legislative powers. Mayors were appointed from among them, who in turn, as „chairmen,“ chaired council meetings. During these appointments, the will of district governors or province governors as representatives of the kings was taken into consideration (Ćwik, 2002: 52-54, Kornaś, 2006: 110-111).

The presented system of state functioning with the dominant position of the gentry and magnates (dignitaries) was characterized by a high decentralization (often referred to as democracy of the gentry) because it was managed by territorially separate, partly enclosed organisms having a sense of nationwide and state bonds through the tradition, parliament and person of the elected ruler, not through a separate clerical state which would guard the power of the state. Reform attempts undertaken by the Polish rulers met with the resistance of the gentry, which led to the increasing weakness of the Polish-Lithuanian State exposed to the intervention of neighboring countries, especially Russia.

However, in the second half of the eighteenth century, public awareness of the need for systemic and administrative reforms increased, and they were carried out in the years 1764–1795 with a huge interference of foreign powers in the affairs of Poland. Under their pressure, the parliament was convened in 1773 in Warsaw to prepare the partition treaties. As a result, the Commission of National Education, common for the Crown and Lithuania, and the Permanent Council, performing the functions of government and administrative



authorities, were created by the parliament. The Commission was considered the world's first Ministry of Education. It organized the education system, including two universities in Krakow and Vilnius, higher schools and parish schools – rural and urban ones. In turn, the Permanent Council, established under the pressure of Russia, was a collegial government (consisting of 36 members) and was divided into five departments, the seeds of the ministries: Department of Foreign Interest, police department, military department, Department of the Treasury, and Department of Justice). The Council did a lot to regulate the affairs of the country but its subsequent submission to Russia made it unpopular in society. It was given a rather uncomfortable term of „permanent treason“ (Ćwik, 2002: 77, Kornaś, 2006: 112-113). Therefore, it was dissolved by the Great Parliament that sat in sessions in the years 1788–1792. It was this parliament that could play a big role in the strengthening of the Polish state and building modern administration. It became famous mainly due to the enactment on May 3, 1791 of the Government Act, which in Poland is still the basis for national pride as the Constitution of 3 of May. Under this act, the reformers established a new body called the Guardian of the Laws. It was a central government, or the Cabinet of Ministers, headed by the king who also presided over its sessions. Government commissions of „Two Nations“ (common for the Crown and Lithuania) of the Army, Police, Treasury and Education were subordinated to the Guardian of the Laws. They were jointly organized ministries, composed of members elected by the parliament. They were directed by the ministers not belonging to the Guardians (the exception was the primate, who was a member of the Guardians and directed the Commission of National Education).

In the last years of the existence of Poland before the partitions, numerous actions to establish effective local administration were taken. Since 1765, the Commissions of Good Order (*boni ordinis*) were established, first in Warsaw, then in other royal cities. These commissions were composed of the gentry but were also aided by townspeople and worked in many cities for a number of years, and did a lot to regulate municipal finance, internal regime of these cities, improve the economic situation. Under the Government Act of 1791, changes in the system of municipal self-government took place. Free (royal) cities were supposed to have so-called enacting assemblies composed of municipal proprietors (property owners), who carried out the selection of

executive offices – municipalities with the president at the helm. In accordance with the regulations on free cities – a higher level of local government was provided in the form of departments, grouping royal cities of individual provinces and lands. The country was divided into 24 departments (Ćwik, 2002: 79-81, Kornaś, 2006: 114-115).

In 1789, a four-year parliament established administrative civil-military commissions, acting in the given territory, province, or district. Władysław Ćwik (2002: 80) stressed that these commissions „rose to the role of Poland’s first modern territorial administration bodies.“

The delayed process of reforming the state aimed at creating good administration and the spurt of Poles during the Kosciuszko Uprising did not produce the expected effect. Three countries: Austria, Russia and Prussia divided Polish lands between themselves, and for 123 years Poland disappeared from the map of Europe. It appeared on it again after World War I due to favorable conditions, including constant aspirations of Poles to implement the ideas of independence.

In the interwar period, the state government system was based on three constitutions: the Little Constitution of February 20, 1919; the March Constitution of March 17, 1921; the April Constitution of April 23, 1935. They guaranteed the unitary character of the state and administration, although in the early years of the state authorities had to take action to unify various systems of territorial division and various administrative systems inherited from the partitioning powers. Due to the lack of space for a wider discussion it should be emphasized that these issues were resolved, to a large extent, by the provisions of Article 65 of the Polish Constitution of March 17, 1921, stating that, for administrative purposes, the Polish State was divided by the legislature into provinces, counties, and urban and rural municipalities, which were simultaneously local government units (Adamczyk & Pastuszka, 1985: 234). Thus, public administration (the term very often used at the time, especially in the scientific discourse) had two basic sub-systems: central and field government and local government. The main segment of central administration was the Council of Ministers representing the collective body of ministers chaired by the Prime Minister. It was appointed by the president, and its main task was to give general direction to domestic and foreign policy. Policies of individual ministers, who directed the relevant departments of public admi-

nistration, had to fit into this framework (their number ranged from 16 in the initial period of the Second Polish Republic to 11 in 1939) (Kornaś, 2006: 22-123, Mróz, 1998: 200-206).

Province governors and district governors were the representatives of the government in the field. The former ones coordinated the activities of government administration towards compliance with the political line of the state. They performed administration in the sphere of home affairs and their duty was to provide security and public order. They supervised local administration, and performed administration in the matters of religion, culture and art, industry and trade, agriculture and agrarian reforms, social welfare and job placement, as well as communication.

It is worth noting that the supporters of the great role of local government in the reconstruction of Polish independence were largely taking advantage of the assumptions of the contemporary German school of local government, both in considering the local government units as corporations, but also in exposing the civil factor. Stefan Litauer (1918: 17) stressed that legislation should be characterized by the rule of harmonization of local government law with the state law, and also take into account the common good and the socio-national interests. He presented it as follows: „We reach this ideal only through genuine democracy: as Gierke (one of the founders of the German school of law of local government) formulates it – by reverting the state into the nation, by changing the state – the institution into the state – into the team.“

The presented idealism in the perception of the role of local government contributed to the fact that the March Constitution guaranteed that municipalities, districts, and provinces would obtain a local government nature. However, the complicated process of integration of Polish lands led to the situation in which, in practice, local government functioned only at the level of municipalities, which had rural and urban character. As a result of the adoption of the Act of March 23, 1933, the partial change of the system of local government was unification of the system of municipalities, meaning that rural municipalities existed – individual and collective ones composed of clusters. In both cases, the boards elected by the municipal councils were the managing and executive bodies. The village mayor directed the board that was also composed of vice mayors, and two or three aldermen (Mróz, 1998: 253–255). In turn, the cities were divided into county boroughs, which had more than

25,000 inhabitants, and the cities with less than 25 thousand residents, which did not have such status. The governing and executive bodies in both types of these cities were city boards elected by the legislative and control bodies, i.e. the city councils. In county boroughs the boards consisted of president, vice presidents and aldermen, whereas in cities which were not county boroughs consisted of mayors, vice-mayors and aldermen.

Competence of rural and urban local governments covered both their own and entrusted affairs. The former included, among others, public safety and the matters of health, construction, transport, trade, or municipal finances. The latter concerned the tasks entrusted to the municipality by the government authorities, such as the civil status record, tax collection, statistical activities, cooperation in the conduct of state elections, support for the military (Mróz, 1998: 253-255).

Moreover, during the interwar period in Poland district local governments operated the executive bodies of which were district departments, elected by the district councils. Similarly to district councils, six member departments were headed by the district governors, appointed by the ministers of internal affairs, and subordinated to the province governors, which meant that districts were of state-local government nature. In practice, local government at the province level did not function then, except in the provinces of Poznan and Pomerania, which earlier belonged to the Prussian partition.

There is no doubt that these pro-social threads of the self-government thought from the period of the Second Polish Republic have become, rather than centralizing tendencies, a kind of a matrix of the presented ideas in order to rebuild local government in the period of systemic transformation in Poland. This was possible only after long years of statehood completely dependent on the Soviet Union, and characterized by the omnipotence of administration and the exercise of its full control over all spheres of economic and social life. At the same time, a rapid limitation of powers took place, followed by a total elimination of local government modeled largely on the Second Polish Republic. Consequently, this led to the supremacy of the Polish United Workers' Party (this period of Polish history is referred to as the state – the party), state totalism, or – as it is sometimes bluntly defined – „casting the society into slavery of the state,“ of officials at all levels of local administration, i.e. into bureaucracy (Michałowski, 1999: 171–195).

#### 5.4 .Determinants of Administration Reform after 1989

Twenty-five years of functioning of public administration in Poland is a sufficiently long period to ensure that you can ask questions about the philosophy of the realized reforms and the effects of their implementation. Answers to these questions are neither easy nor unequivocal. Starting the discussion on this topic, it is worthwhile, however, to refer to the determinants of the presented philosophy of reforms.

Thus, it is obvious that the main determinant is the starting plan, which is the political system of the Polish People's Republic, characterized by the lack of democracy and the withdrawal of society from a broader activity in the public interest. The second determinant is permanent social memory of a Polish statehood history, and especially of the period of the independent Second Republic, and quite idealistic assessment of the role of local government and its political system. The third determinant is the shape of the political system in Poland after 1989, in which, after a short period of a great role of civic committees created based on the structure of Independent Trade Union Solidarity, political parties regained the dominant role. Finally, it should be emphasized that the philosophy of decentralization of public administration in Poland is greatly influenced by contemporary trends in the reform of public administration in Europe, i.e. its evolution towards an administration efficient in providing services for society with the increasing activity of society itself.

If we look at the philosophy of administration reform in Poland after 1989, we can assume with a certain reservation, that there are two philosophies of these reforms: the philosophy of idealists and the philosophy of pragmatists (realists). At the same time, we can determine time boundaries of shaping these philosophies. This first was formulated as early as in the times of the Polish People's Republic, i.e. in the 70s and 80s of the twentieth century and during the first term of office of local municipalities and lasted until 1998, i.e. until the introduction of legal solutions related to the implementation of the second phase of decentralization of public administration.

At this point, let us present only general assumptions of both philosophies. The main assumption of the representatives of the idealistic trend was that the manifestation of state administration decentralization would be primarily restoration of local government, i.e. the creation by society of local com-

munities in task and institutional terms. The sub-system of self-government administration was also to contribute to building participatory democracy (and not only representative one), and building of a civil society, and thus a strong state. On the other hand, pragmatists or realists called for a practical approach to the functioning of public administration itself, including its local government sub-system. They were prepared to accept decentralization of state administration in terms of tasks (not always in a wide range) but at the same time they treated self-government institutions (local government bodies) as elements of the political system, and thus the field to widen political competition, and as a result, also the executed power. With the current picture of Polish political scene, this takes the form of – using the Ernest Skalski's term (2008: 15) – „the battle for the ground.“

It should be emphasized that the philosophy of the idealists would have no reason to exist if not for the quite common spurt of society in 1980, and then the activities of the Independent Self-Governing Trade Union Solidarity, which quickly started to be called the construction of civil society. Leaders of the administration reform inherited from the Polish People's Republic tied their fate with „Solidarity“, and with its ultimate support they realized their vision of reactivation of local government in Poland. Even before that they were organized in the Seminar „Experience and Future“ operating since 1978. In the document *Basic principles of the local government reform in Poland*, adopted on September 2, 1981 by the Team of Local Governments and Spatial Policy Instruments, operating at the Seminar and Social Committee of Economic Reform, we can find many thoughts, which were later practically reflected in the statutory decisions restoring a self-governing municipality. The one pertaining to the concept of local self-government emphasizes that it is based on the local community: an urban or rural municipality understood as a territorial entity and territorial corporation. The criterion for the isolation of these units is recognized as follows: „local interest, the existence of own specific needs, and satisfying them by the community itself in an autonomous way“ (Regulski, 2000: 61). Moreover, the future tasks of local government were determined from the perspective of the local community, which is the representation of its needs and interests, and the protection of a wider quality of life. The „appropriately extensive“ range of activities and competences allowing to act as a good host of the territory was to be implemented thanks

to having the administrative-legal subjectivity and legal personality (for the disposal of assets) (Regulski, 2000: 62–65).

During the „Round Table“ proceedings, the restoration of local government was not considered a priority by the solidarity side, while the government-coalition side did not accept it because, as Jerzy Regulski wrote (2000: 59), free elections would mean a takeover of power in municipalities by the opposition: „The only possibility that was taken into account was the loss of the Communist Party in local elections.“ The author of this assessment did not hide his disappointment with the course of the „Round Table“ proceedings, and at the same time he expressed the hope that self-government issues would soon be appreciated: „The restoration of self-government is necessary (...). It is obvious (...). Unfortunately, people in Poland do not know what self-government of towns and municipalities means, they do not understand its essence, they underestimate the importance. The sense of local interest has not evolved. Today, it is quite natural that self-government has been obscured by the upcoming parliament election. But these issues will surface and will become important“ (Regulski, 2000: 216–217).

The determination of supporters of administration decentralization and the reactivation of genuine self-government brought effects quite quickly since it received the support of the higher chamber of the first term, which on July 4, 1989 appointed the Local Government Commission, and Jerzy Regulski became its chairman. On July 29, the higher chamber passed a resolution on local government, which states, among others, that: „The higher chamber expresses its conviction about the need for genuine self-government of cities and municipalities as an essential element of the reconstruction of the political and legal system of Poland. The absorption of local government by the local organs of state power caused incapacitation of individuals and local communities, their total dependence on the arbitrariness of local representatives of state administration, paralysis of individual and group economic and social activity, hypertrophy of local administration and bureaucracy“ (Klein, 1998: 29). In the presented resolution, the higher chamber pledged to undertake the initiative to prepare relevant draft regulations, and obliged the Local Government Commission to present, in a short time, legislative work to significantly accelerate elections to local governments of towns and municipalities (Klein, 1998: 29). As a result, in the Act of March 8, 1990 on local government Article

1 on the creation of the local community by local residents by the rule of law was adopted (Journal of Laws of 1990, No. 16, item 95).

The effective side of the first phase of decentralization was not univocally assessed because, as Jacek Pokładecki emphasized (2001: 26), in practice, the state theory of local government was applied as central authorities deliberately limited self-government to the level of municipalities, and determined the division of powers between the municipal government and the government administration. Government administration gained an advantage in this division. We must agree with this assessment because regional civil servants were not satisfied with the scope of decentralization since many evidently local matters remained in the hands of the central government, province governors, or newly created districts (Nawrot & Pokładecki, 2007: 282). That is why, the municipal civil servants and their unions and associations (Association of Polish Cities, Association of Rural Municipalities of the Republic of Poland, Union of Polish Towns) conducted sharp disputes with the governments of the Third Republic about the transfer of real funds for the implementation of statutory tasks but also about broadening the scope of tasks delegated to them. At the same time, a part of municipalities joined the discussion about further planned reforms of administration, including the creation of district local government units.

In other words, the system of local government quite quickly managed to find its place in the political system created in Poland at that time but it was subjectively limited to municipalities which, according to the preamble to the higher chamber draft law on local self-government, remained a form of deciding on public matters of local significance, the form which was embedded in the structure of the state, they were not opposed to government administration but on the basis of laws they complementarily participated with it in the exercise of public administration (Nawrot and Pokładecki, 2007: 282).

### **5.5 .Assumptions, Goals, and Principles of the PAR in 1998**

The introduction of municipal local government in 1990, and equipping it with legal personality showed that public tasks can be efficiently and effectively carried out by the entities other than central government bodies. It turned out, however, that there was a group of public tasks whose implementation exceeded the capacity of a single municipality. There was therefore a



need to create local communities with the supra-municipal range. In the first place, it was proposed to create self-government at the district level. Over time, however, the attention was paid to the need to establish self-government at the regional level (Chochowski, 2009: 71).

In shaping the concept of public administration reform in Poland in 1998, in addition to many public consultations, also opinion shaping local government circles had a significant share, undertaking a variety of resolutions, presenting their position on the idea of the local government reform and its assumptions. Moreover, the achievements of science and the results of public opinion polls conducted by the country's largest research centers (the Centre for Public Opinion Research and the Centre for Research of Public Opinion) were taken into account. The work of the Task Force for Regional Development and the Government Plenipotentiary for the Reform of the Country's Economic Centre constituted an important contribution to the process of formulating the objectives of the administrative reform. Based on the collected opinions and views the main objectives of the reform of public administration were formulated as follows:

1. Improving the functioning of the state, including greater efficiency of the executive. This consisted in the introduction of strong and efficient combined administration, and thus the liquidation of negatively acting ministerial administration. In the new system, the responsibility for a proper and effective performance of functions of the state (internal security, public order) was to be borne by a single public administration body – village mayor, mayor, or marshal. An important objective in this area was the introduction of a system based on cooperation and agreement negotiations and public consultations instead of a hierarchical system.
2. Building the institutions of democratic control of civil society at all levels of the major territorial division of the country. This would mean the introduction of community representation to new administrative units through the establishment of councils at the district and provincial levels elected in local elections. An important tool in this regard would be the institution of local referendum, and building of a legal basis for the so-called civil service.
3. Regulating the territorial system through the creation of additional tiers of local government; a district, which would perform tasks bey-

ond the capabilities of a single municipality, and a province, capable of conducting regional policy and executing the tasks of supra-local nature. The new self-government structures were also supposed to help in adapting the country to the EU standards.

4. Another objective was decentralization of public finances, so that the sum of the budgets at all levels of local government accounted for 25% of public expenditure.
5. Another important objective of the administration reform in 1998 was to adapt the country's territorial organization and local government structures to the standards common in the EU, which would facilitate the use of legal and economic instruments of the EU aimed at the development of regional and interregional cooperation. The establishment of a self-governing region would give a chance for effective cross-border and interregional cooperation. This would allow to obtain significant funding under the equalization of economic disparities between the actors of regional policy (Słobodzian, 2007: 134–140).

It is also important to indicate the most important principles on which the administrative reform was based. The new system of territorial administration in Poland was to be based on the principle of subsidiarity and the principle of the unitary character of the state. The principle of subsidiarity as a basis for the organization of the state regulated by the Constitution of 1997 meant that no government should interfere with citizens or social groups in setting and implementing their tasks. The aim of every government is to stimulate, mobilize, promote, and supplement the activities of entities that cannot cope with the given case. Subsidiarity contributed to the construction of local government structures by transferring tasks to be implemented independently to lower levels of local administration. The principle of subsidiarity was also to introduce the order of determining the rights and obligations of government entities, involving the division of certain tasks between different forms of public authority (Słobodzian, 2007: 134–140).

The other principle on which the public administration reform in Poland was based was the principle of territorial integrity of the state. This principle was also guaranteed in the Constitution, Article 3, guaranteeing the full and exclusive sovereignty of the state as a whole. The realization of

the principle of unitarity of the state was ensured mainly by 1) a single and uniform legal system created by the parliament, and not by the local government; 2) uniform citizenship associated with the state, and not with local government units; 3) uniform rules for the organization of public administration apparatus which would be responsible for the implementation of general national interests at every level of the territorial division; 4) statutory definition of systemic principles of local and regional government, pertaining to the system of bodies, their mutual relationships, composition, mode of appointment and supervision; 5) functioning of administrative courts in the system of supervision of local government which guarantee the protection of citizens against unlawful decisions (Słobodzian, 2007: 144–146).

The public administration reform of 1998 introduced in Poland a clear separation of functions of public authority among three main segments of the state administration system: 1) local government (in rural and urban areas and in districts) primarily responsible for meeting collective needs of local communities; 2) regional government (in provinces) responsible for regional development policy; 3) government and government administration (central and local) responsible for nationwide matters, as well as for law enforcement and supervision of local government (province governors) in this area. In addition, the reform led to a number of sectoral reforms in various fields, including in police, fire services, education, social welfare system, which as a result of the reform fell under the decentralized board. For the purpose of the reform of 1998, several basic laws of systemic character were introduced, among them the Public Finance Act and the Act on Civil Service. Moreover, nearly 200 laws in force were amended. In 2000, the Act on the Principles of Promoting Regional Development was adopted, which complemented the earlier regional legislation (Kulesza, 2000: 83).

Following M. Kulesza (2000; 83), we should assume that the administrative reform in the 1990s in Poland broke three major monopolies of the totalitarian communist state: the political monopoly of a single party, the already mentioned principle of unified state power, and the principle of a single state ownership fund, which were followed by the decentralization of state administration and state finances. This resulted in a thorough reconstruction of the public sector – including, in particular, the principles of political governance, and the principles of organization and delivery of

key public services and execution of administrative tasks. The effects of the public administration reform of 1998 took place in several key areas of socio-economic life:

- In the social sphere, there was an exponential growth of non-governmental organizations and initiatives, local media and other forms of self-organization of society (Sługocki, 2004: 395–398);
- In the political sphere, local government became a very good democratic tool to shape new local and regional elites, which took control over the operation of numerous institutions of public life and public services, and accountability in this respect, and forged nationwide elites;
- In the sphere of public property, a large part of state property was municipalized, which resulted in the development of real estate market, technical infrastructure was substantially expanded, and a base of rational management of public assets was created;
- In the financial sphere, development of public fund management (both on the local and general scale) and of supporting institutions with the entire capital market, which allowed decentralization of regional development policy (Nieżgoda, 2009: 353–366);
- In the administrative sphere, management mechanisms in many areas of administration and public services were decentralized, including in the sphere of public order protection and collective security, which was subjected, together with other areas, to the control of the civil power;
- In the sphere of local government institutions, new planes for cooperation of public, private, and NGOs partners were created in order to jointly establish local development;

In the sphere of inter-state cooperation, development cooperation between Polish local government units and partners from other countries was established (Kulesza, 2000: 80).

The reconstruction of the state administration system is usually a difficult and complex process encountering organizational, legal as well as social, political, or economic obstacles on its way. When the administrative reform in Poland began in 1989, it was accompanied by a widespread acceptance of the idea of self-governance characterized by the formation of municipalities able to self-administer matters that are important to the residents. Over the

next few years, discussions took place regarding the creation of an optimal model to realize this idea (Rączka, Szalewska & Jędrzejewski, 2000: 102–106).

### **5.6. Importance of the Concepts of Territorial Divisions in the Public Administration Reform**

What is crucial nowadays for the course and organization of the process of public management is a way of organizing field administration: local and regional, scope of its duties, powers, and competences. One of the essential elements of the organization of administration is the territorial division, which is set in order to achieve better organized and efficient realization of public tasks. It can be assumed that functioning of independent territorial units, smaller than the state, with their own authority facilitates better understanding and identification of social needs, and more rational decisions and projects implemented by local officials in charge.

The issue of the proper division of the state is very complicated. Number of degrees of territorial division, size of individual units, size of their population, course of administrative boundaries are all the elements whose adequate planning and territorial distribution should contribute to the proper attendance of the population by public administration, and facilitate the process of stimulating local and regional development.

Territorial division means a relatively permanent partition of a country made with the use of legal norms in order to determine the territorial basis of activities of organizational units of the state and local government units. Territorial division plays an ancillary role to public administration. In making this division, usually geographical, economic, cultural, urbanization factors, etc., are taken into account but the most essential factor is the realization of the function of public administration (or functions of other public entities). Due to the dynamics of public administration, the territorial division can be characterized as relatively permanent because it evolves with changes in the way of functioning / action of administration (Tarno, Sieniuc, Sulimierski & Wyporska, 2002: 20).

In the practice of functioning of the state and its administration, there are three kinds of territorial divisions: major territorial division, auxiliary territorial division, and special territorial division.

Following Zbigniew Rykiel (1993: 50–51), we can assume that in the history of Poland in the 20<sup>th</sup> century four main political-systemic models of the state developed, and point out what role in each of these models was assigned to public administration, particularly to local government:

1. A temporary model, lasting from the 14<sup>th</sup> century, in which districts appeared, and which finally formed in the 30s of the 20<sup>th</sup> century after the unification of administrative systems of the partitioning powers. Rykiel (1993: 50–51) argues that this model was a compromise between the model of self-government and the centralized model. This provisional and constantly criticized solution survived until the end of the 40s.
2. A totalitarian model, introduced in the 50s, which externalized the political system ideal of people's democracy.
3. An authoritarian model, introduced in 1975, which externalized the political system ideal of a „developed socialist state.“
4. A paternalistic model, which was introduced in 1990. This model was based on the creation of the municipality as the primary and, at the same time, only local government unit with an elaborate structure of central administration in the field.

In the process of creating public administration units, in particular, at the level of district local government, certain conditions were taken into account. Włodzimierz Zajac (1999: 46) enumerates the following conditions, which guided the process of creating districts in 1998:

1. Establishing of and preserving supra-municipal functions in relation to the municipalities, which were to become part of the district (e.g. high schools);
2. Economic potential of the proposed district, which translates into the possibility of providing public services;
3. Historical and cultural conditions;
4. Acceptance of local communities regarding the district geographical coverage and its seat;
5. Geographical conditions, including the settlement network and its nature;
6. Number of municipalities forming the district on the assumption that there should be fewer than 5;

7. Population of the future district for which the lowest adopted limit was 50,000;
8. Area of the district.

In addition to the major territorial division, there are also auxiliary and special divisions in Poland. The auxiliary division is such a territorial division, which is made for the bodies which are not independent in relation to major authorities (Nowacka, 1997: 65). This division is fully complementary in relation to the basic division because in its framework these tasks of local government units, whose performance in the major distribution is irrational, should be implemented. The creation of auxiliary units by municipalities, and thus the introduction of the auxiliary division is optional. The legislature also does not prejudice the extent to which municipalities can exercise the power to create auxiliary units.

Municipality auxiliary units include village councils, estates, and neighborhoods. An auxiliary unit is created by a municipal council by resolution after consultation with the residents, or on the initiative of residents. Principles of the creation, merger, division, and abolition of auxiliary units are specified in the statute of the municipality.

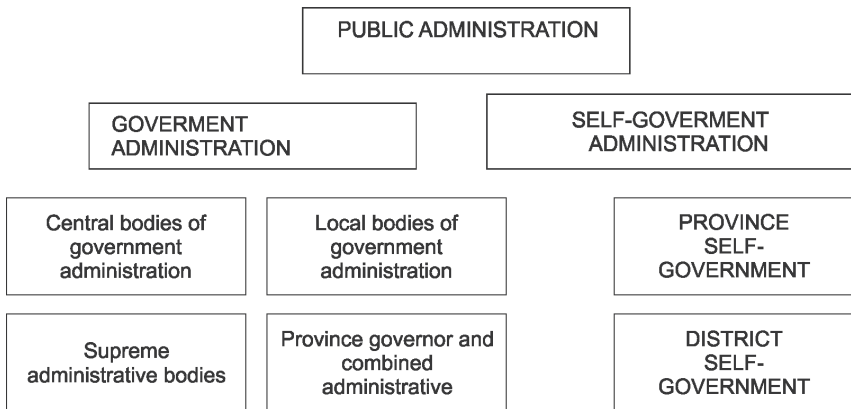
In turn, special divisions are made for the needs of certain public administration structures. They are carried out mainly due to the nature of non-combined government administration for which the main territorial division is not always sufficient (Knosala, 2006: 103). Legal bases of special divisions are contained mainly in the laws governing the system of individual structures of government administration. It should be noted that although the majority of cases of special territorial divisions are established for the needs of public administration, special divisions are also created for the benefit of entities not belonging to public administration (e.g. for the judicial system).

### **5.7. Structure, Organization, and Functions of Public Administration in Poland**

Public administration in Poland is divided into government administration and self-government administration. Government departments consist of bodies (offices) and other public entities appointed to perform tasks in the field of public administration, subordinate to the supreme administrative bodies,

i.e.: the Prime Minister, the Council of Ministers, and individual ministers. Government administration is centralized through the hierarchical personal, organizational, and official subordination of lower level bodies to higher-level bodies. In addition, superior bodies are entitled to exercise control and supervision of lower level units, and to obtain information on their activities. The Constitution does not divide government administration bodies into the supreme government administration bodies and central government administration bodies. However, relevant normative acts, i.e. laws and regulations, refer *de facto* to such a division (Kociubiński, 2012: 14–21). The diagram below illustrates the overall structure of public administration in Poland.

**Figure 5.1:** Structure of Public Administration in Poland



*Source: own study on the basis of Act on Government Administration Operation of 4 September 1997 (Journal of Laws of 1997, No. 141, item 943).*

### 5.7.1. Government Administration

Supreme government administration bodies are the bodies that are part of the Council of Ministers. The bodies, which are the supreme government administration bodies, occupy a superior position among the others, and are appointed by the lower chamber of the parliament or by the president. Central bodies of government administration are not part of the Council of Ministers, and their appointment does not require a decision of the lower chamber of



the parliament or the president but only of a supreme body of government administration. There are two levels of administration: the central and local one. Supreme and central bodies of government administration constitute the central level. The local level is composed of local bodies of government administration subordinated to the province governor (combined administration) and local bodies of non-combined administration subordinated to the direct superiority of ministers or central government administration bodies.

### ***Prime Minister***

The Prime Minister exercises supreme official sovereignty over government administration employees. The activity of the Prime Minister in this respect involves nomination, inspection, and supervision of employees in the government administration sector. Several institutions are subordinated to the Prime Minister over which he/she exercises a direct supervision. His/her supervision covers the activity of Central Statistical Office, Polish Committee for Standardization, Office of Competition and Consumer Protection, Internal Security Agency and Foreign Intelligence Agency, Central Anti-Corruption Bureau, and Public Procurement Office. The Prime Minister also oversees Central Commission for Applications and Titles, Public Opinion Research Centre, Financial Supervision Commission, National School of Public Administration, Polish Academy of Sciences, Polish Committee for Standardization, Council for Refugees, Government Security Centre, Government Legislation Centre, and Office of the Committee for European Integration. The Prime Minister is also the head of the civil service. The civil service includes people employed in the government administration structures. The essence of the civil service manifests itself mainly in delegating tasks to professionally prepared officials characterized by impartiality and total political neutrality. Other forms of sovereignty of the Prime Minister are competences related to the appointment and dismissal of the Head of the Civil Service, and the obligation of the Head of the Civil Service to present the annual report. The Civil Service Council – an advisory body – is also subordinated to the Prime Minister.

### ***Council of Ministers***

Each minister, in addition to being a member of the Council of Ministers, is also an independent body of government administration. In terms of administration, the Council of Ministers directs overall government administration. This involves coordination and control of operation of both the entire

system of government as well as its individual components. Directing in this case is a form of government activity encompassing a series of steps aimed at ensuring uniform implementation of the policy determined by the government and by the entities located in the government administration sector in relation to which the Council of Ministers has a superior position with a hierarchical subordination. It also involves undertaking inspection activities. Inspecting the activities of subordinate entities means that the Council of Ministers may, inter alia, request the Supreme Chamber of Control to inspect the indicated entities. Overall management, coordination, and control concern the central state administration bodies to which the Council of Ministers and the Prime Ministers are superior bodies.

Ministers can be divided into two groups: ministers in charge of particular departments of government administration, and ministers performing tasks assigned by the Prime Minister (i.e. the ministers without portfolio).

The departments of government were literally mentioned in the Act on Government Administration and include the following departments: public administration; construction, spatial and housing management; budget; public finances; economy; maritime; water management; financial institutions; computerization; Polish membership in the EU; culture and heritage conservation; physical culture; communication; science; national defense; education and upbringing; job; agriculture; rural development; regional development; agricultural markets; fishery; Treasury; justice; higher education; transport; tourism; environment; family; internal affairs; religious denominations, national and ethnic minorities; social security; foreign affairs; health.

### ***Central bodies of Government Administration***

Central bodies are directly subordinated to supreme bodies, and are appointed, dismissed, and supervised by these bodies. They are created on the basis of laws or regulations of the Council of Ministers. Therefore, central bodies do not have certain competences attributed to the ministers (the right to issue regulations for example). The tasks of central government bodies are laid down by the laws or regulations on the appointment of these bodies. The range of action of central bodies covers the area of the whole country. Central bodies are individual or collective bodies most often bearing names such as president, chairman, chief, chief inspector, and CEO. Government administration tasks (i.e. the matters for which the government is directly or indirectly responsible)

are performed at the central level by over 100 units of varying statuses, sizes, organizational structures, and scopes of tasks. Among the most recognizable central government bodies are: Central Commission for Academic Degrees and Titles, President of the Central Statistical Office, Polish Committee for Standardization, President of the Office of Competition and Consumer Protection, President of the Polish Patent Office, President of the Office of Public Procurement, Council for Refugees, Government Security Centre, **Commissioner for Patients' Rights**, Head of the Internal Security Agency, and Head of the Intelligence Agency, Head of the Central Anti-Corruption Bureau, National Atomic Energy Agency, and Police Headquarters.

### *Province Governor*

According to the Act of January 29, 2009 on the Province Governor and Government Administration in the Province (Journal of Laws of 2009, No. 31, item 206) the province governor is a representative of the Council of Ministers in the province. The province governor as a representative of the Council of Ministers is responsible for the implementation of government policies in the province. He/she is appointed and dismissed by the Prime Minister on the request of the Minister of Public Administration. The Prime Minister and the Minister of Public Administration oversee the province governor's activities, and make a periodic assessment of his/her work. This supervision is to ensure the compliance by the governor not only with law but also with the government policies, including instructions and guidance received from the Prime Minister. Any disputes between the governors and between the provincial governor and the member of the Council of Ministers or the central government administrative body are settled by the Prime Minister. The province governor performs the following functions: he/she is a representative of the Council of Ministers in the province; acts as a superior unit of combined government administration; is the supervisory authority of local government units; is a higher-level body; represents the State Treasury. The governor's supervision of local government units lies in the fact that the province governor may waive all illegal resolutions adopted by every level of local government. In addition, the province governor is responsible for monitoring the performance of government administration tasks by local government bodies. In this regard, the province governor acts as an appeal body for decisions of the municipality, taken in matters of government administration commissioned to the municipality (Gąciarz, 2006: 199).

### *Combined Provincial Government Administration*

According to the Act of January 29, 2009 on the Province Governor and Government Administration in the Province (Journal of Laws of 2009, No. 31, item 206) combined government administration encompasses the provincial governor (implementing competence with the help of the provincial office) and managers of combined services, inspections, and guards carrying out their tasks under the authority of the governor (offices, inspectorates, and units of these services are an apparatus which assists the managers). Combining pertains to those bodies which are assigned with inspection activity, supervisory, and control functions. The budgets of combined provincial administration, including income and expenditure of the provincial budget of the combined organizational units of services, inspections, and guards, are included in the part of the state budget covering the budget of the relevant governor.

The province governor directs the activity of combined government administration, and is responsible for the results of their actions. The province governor has a decisive influence on the cast of the most important positions in combined provincial administration. It is expressed in the fact that he/she appoints and dismisses managers of combined provincial services, inspections, and guards (except for the commanders of the police, and fire-fighters who are appointed and dismissed at the request of chief commanders of the police and fire service by the Minister of Interior, while the province governor only evaluates the candidates). The bodies of combined provincial government administration are: Provincial Police Commander, Provincial Fire Service Commander, Superintendent of Education, Provincial **Inspector of Agricultural and Food Quality**, Provincial Inspector of Geodetic Supervision, Provincial Inspector of Pharmaceutical Inspection, Provincial Inspector of Trade Inspection, Provincial Inspector of Building Supervision, Provincial Inspector of Road Transport, Provincial Conservator of Historical Monuments, Provincial Inspector of Environmental Protection, Provincial Sanitary Inspector, Provincial Inspector of Veterinary Medicine, and Provincial Inspector of Plant Health and Seeds. The above-mentioned bodies of combined government administration in the province carry out their tasks and competences with the help of the provincial office. In order to make the activities of combined administration bodies more efficient, the province governor may establish delegation offices in the field that support them. A detailed organization of combined government administra-

tion in the province is defined by the provincial office statute enforced by the governor (Gąciarz, 2006: 199).

### ***Non-combined Local Government Administration Bodies***

According to the Act of January 29, 2009 on the Province Governor and Government Administration in the Province (Journal of Laws of 2009, No. 31, item 206) non-combined administration bodies are composed of field delegations of government bodies, and are subordinated to ministerial departments. Non-combined administration bodies are established exclusively by a regulation, and are usually based on the principle of centralization. The appointment and dismissal of non-combined administration bodies takes place, however, at the request of the governor or with his consent. The province governor also has coordinating, consultative, and, in special cases, controlling competences in relation to these bodies. Non-combined administration bodies operating in the province are obliged to consult draft local laws with the provincial governor, and ensure compliance of their activities with the instructions of the governor. Moreover, non-combined administration bodies are required to submit to the governor annual and current information about their activities in the province. Non-combined administration bodies include: commanders of military districts, heads of provincial military staffs, army recruiting commanders, directors of customs chambers, and heads of customs offices, directors of tax chambers, heads of tax offices, directors of fiscal control offices, directors of regional mining authorities and specialized mining authorities, directors of regional offices of measures and heads of peripheral offices of measures, directors of regional assay offices, directors of regional water management boards, directors of maritime offices, directors of statistical offices, directors of inland waterways, border and district veterinarians, commanders of Border Guard divisions, commanders of watchtowers and commanders of Border Guard units and squadrons, local inspectors of sea fishery, state border sanitary inspectors, and regional directors for environmental protection (Gąciarz, 2006: 199).

### **5.7.2. Self-government Administration**

After the public administration reform of 1998 there is a major three-level territorial division in Poland. It was established both for local government administration bodies and bodies of self-government units. The effective Polish territorial division is a consequence of the progressive decentralization of public

administration and the establishment of new territorial units with their own authority, tasks, finance, property, and legal personality (Gąciarz, 2006: 199). This new three-level administrative division of the country into municipalities, districts, and provinces finally came into force on January 1, 1999, pursuant to the provisions of the Act of July 24, 1998 on the Introduction of the Three-Level Division of the Country (Journal of Laws of 1998, No 96, item 603).

This Act introduced 16 provinces, 308 rural districts, and 65 city districts – townships (the city takes over the district's powers and tasks, property, and resources necessary for the implementation of these tasks, there are no separate authorities for the district since the city authorities exercise these responsibilities) and 2,489 municipalities.

Apart from government administration and local government units, there are also other entities having a specific meaning in the process of administration (some of them, however, do not belong to the so-called public sector). In Poland these are, among others:

- Public undertakings,
- Government agencies,
- Public foundations,
- Economic self-government chambers,
- Professional self-government chambers,
- Agricultural self-government chambers,
- Social organizations, associations, and others (Lenik, 2012: 64–66).

### 5.7.3. Regional Self-government

Self-governance at the regional level, which was introduced by law on January 1, 1999 (the Act of July 24, 1998 on the Introduction of the Three-Level Division of the Country), determined the shape of new territorial division of the country, as a result of which 16 new provinces were established. The legislative action taken then might be called regional decentralization, resulting in the appointment of new authorities at the regional level without disturbing the structure of the state. Its essence consisted of granting the status of an independent entity of spatial and regional policy to provincial self-governments. Because of the second phase of decentralization reform Mazovian Province was founded in the territorial and socio-economic space of the country – a region with the highest economic, population, and scientific potential, and a relatively

high standard of living. It should be noted that the potential of Mazovian Province results primarily from the functions played by Warsaw metropolis distancing itself from other areas of the province (Struzik, 2008: 11–22).

Provincial government operates according to the following regulations: Polish Constitution, Act on Provincial Self-government, Act on Principles of Development Policy, Act on Spatial Planning and Development, and so-called Departmental Acts assigning specific tasks to self-government.

The scope of provincial government operation is quite precisely defined by the Act of June 5, 1998 on Provincial Self-government. Provisions contained therein determine the structure of province, competencies of province government bodies, matters of property and finance as well as international cooperation and supervision of the operations.

It should be noted that in accordance with statutory provisions (Article 11, Paragraph 2 of the Act on Provincial Self-government) the primary duty of provincial government is to conduct development policy, which consists of the entirety of issues in the field of the impact of local authorities.

The most important tasks of provincial government are as follows:

- Creating the conditions for economic development in the province, including the support for technological progress and innovation,
- Maintenance and expansion of provincial social and technical infrastructure,
- Shaping the environment and stimulating sustainable development,
- Investing in the development of human resources – in the sphere of education, science and culture,
- Initiating activities aimed at social integration and combating social exclusion (Struzik, 2008: 11–22).

In general, the essence of self-governing province is thus reflected in the Act on Provincial Self-government. According to the provisions of this Act, provincial government should be understood as „a regional self-governing community and a relevant territory“, where it is noted, „in accordance with law whereas the residents of the province form a regional self-governing community.“ Bodies of this self-government are the province council and the province board directed by the province marshal. The scope of responsibilities of provincial government comprises public tasks of provincial nature, which are not reserved, by law, for the government bodies. The scope of activities relates

generally to pursuing policy of regional development and providing services to the regional community (Jaźwiński, 2010: 21–26).

#### 5.7.4 Essence of Territorial Self-government

Territorial self-government is an association of the local population, which is separated in the structure of the state, established by the law, appointed to exercise public administration, and equipped with material resources to carry out tasks assigned to it (Przywojska, 2014: 23).

Currently, the municipality as the basic unit of local government was created by the law, i.e. a separated association of the local community – a territorial self-governing corporation, established to exercise part of public tasks (exercise public administration), and equipped with material means to carry out these tasks (Niewiadomski, 1999: 27). Zbigniew Niewiadomski (1999: 27) states that the separation of municipality has a dual dimension. On the one hand, it is an organizational separation manifested by the fact that the municipality is a separate structure with its own elected authorities; on the other hand, this separation is reflected in a separate legal personality, which entails that the municipality can be the subject of property rights.

Agnieszka Korzeniowska and Ryszard Krawczyk (2004: 26) define the municipality as a unit of local government, constituting a special kind of socio-economic system, a so-called territorial self-governing corporation of public law whose essential elements are: 1) residents creating local municipal community; 2) area occupied by the municipality – the territory; 3) authority exercised by democratically elected municipal bodies; 4) possession of organizational units. To the essential characteristics of local self-government, Piotr Rączka also adds public administration tasks for the performance of which local authorities have been established (Rączka, 2003: 60, Prais, 1998: 1).

Following Bogdan Dolnicki (2000: 154–158), it should be stated that a subject of local government is the local community living in the area, and organized in a local government association. In addition, the legal personality, which the unit of local government has, constitutes the subject of local government.

The essence of local government, in addition to the local community and the status of legal personality, consists also of the legal status of authorities of this unit. Local government authorities act through their bodies (Brunka, Kumorek & Łuczak-Kumorek, 2003: 229). For example, pursuant to Article 8 of



the District Act, district bodies are the district council and the district board. Although the Act on District Government does not give the status of the body to the district governor, he/she acts in such a role when he/she issues decisions in individual cases in the field of public administration which belong to the competences of the district (Zieliński, 2004: 67).

The essence of local government is also determined by the definition of its subject. The subject of the municipal government is, firstly, the territory of municipality, and, secondly, the tasks carried out by the municipality. The territory of local government is a key element of separation of a self-governing unit. It is a space delimited by boundaries of the major territorial division within which the sovereignty of local community extends (Jaworska-Dębska, 2009: 243–252).

The other elements constituting the subject of local government are the tasks carried out by the self-governing municipality, district, and province. The tasks of local government are public tasks imposed by the law, and consist in satisfying the needs of local residents using statutorily and non-statutorily defined funds, and these tasks cannot violate the scope of activity of other local government units (Brunka and Kumorek and Łuczak-Kumorek, 2003: 391). The tasks of local government were settled, firstly, by the laws governing the operation of various local government units and, secondly, by the special laws (Journal of Laws of 2003, No. 207, item 2016).

In general, the task of local government in Poland can be divided into two categories. On the one hand, these are the tasks listed in local government acts, and on the other hand, the assigned tasks in the domain of government administration (Leoński, 2004: 139–140).

#### **5.7.5. Functions of Public Administration and Territorial Self-government**

Analyzing the functions fulfilled by the local government, we should pay attention to the general functions of public administration in the framework of which the activities of local government units fit in. Not always, however, are these functions identical. The concept of administration functions should be distinguished from the objectives of administration or its tasks, although these are synonymous concepts. A function is an intermediate term between the objective and the task (Dictionary of the Polish Language, 1995: 220, 580). Thus, for example, in planning local development as well as in the functioning of lo-

cal administration, the objectives (they can be, for instance, divided into main, partial, and operational objectives) are rather general categories constituting certain guidelines to be implemented by means of specific functions and tasks. Tadeusz Kuta (1991: 7–8) defines administration functions as „mapping of the basic objectives, and assigning them intermediate objectives. This mapping is expressed in the activities of administration which are durable (continuous rather than one-off) and multi-agent, i.e. can occur in various sections of the organizational structure of public administration, and may have a different subject.“

Tadeusz Kuta (1992: 7–8) identifies three basic functions of administration. These are regulatory-administrative, organizational, and executive functions. The same author gives another division of functions of public administration: 1) political functions; 2) social and culture-generating functions; 3) functions in the field of organizing economic relations; and 4) regulatory functions. In order to comprehensively show the types of functions of public administration we should present another division made by Jacek Wojnicki. The author divides administrative functions into: 1) planning function (formulation of objectives, ways, and methods of implementation); 2) police function (administration protects generally accepted values, public order, and safety); 3) function of service provision; 4) economic function (direct business activity or support for private enterprises); 5) fiscal function (enforcement and collection of levies and taxes) (Wojnicki, 2003: 29).

It should be noted that the last division of functions of public administration is closest to the specificity of local government operation. This does not mean, however, that we can ignore other classifications of functions. Taking into account a number of factors that determine the specificity of local government operation in Poland, we can differentiate the following functions:

1. Planning function;
2. Service provision function;
3. Executive-administrative function;
4. Economic function;
5. Political function.

The fiscal function, that is very important from the point of view of municipal government, has no practical use for district government, of course, mainly because the district (except for city districts) does not have the right to enforce and collect local taxes in the structure of its income.

The planning function is very important from the point of view of social and economic development of local government unit. The plan (strategy – they mean the same in this case) should be understood as a document serving to the realization of local development that was created for the needs of local government, and adopted by the resolution of constitutive body (Brunka and Kumorek and Łuczak-Kumorek, 2003: 378). Planning is the definition given to the objectives which the given local government unit should achieve in order to develop. These are the main, intermediate, and partial objectives (Domański, 1999: 31).

In the framework of planning policy, which is a consequence of the implementation of the above-indicated functions of planning, local government prepares the following exemplary strategies and plans:

1. Economic development strategy;
2. Local development strategy;
3. Tourism development strategy;
4. Program of crime prevention and public order;
5. Program of combating unemployment;
6. Program of environment protection;
7. Eco-energy strategy;
8. Program of sustainable development and environmental protection;
9. Waste management program;
10. Investment programs.

The above-mentioned documents are always adopted by the council of local government units by a resolution, thus should be included to the facultative and compulsory documents. The preparation of documents, such as an environmental protection program and waste management program, result from the obligation imposed on local government by the Environmental Protection Act, Waste Management Act. It is up to municipality bodies whether they prepare, for instance, an economic development program or a tourism development strategy.

Another function of the district is service provision. Tadeusz Kuta (1992: 20) makes a general division of services in the field of social security, education, culture, youth education, environmental protection, and public utilities. Generally, the types of services (tasks) provided by the local go-

vernment can be divided into several groups. These include:

1. Social infrastructure, which includes public education, health care, and social assistance;
2. Technical infrastructure, which includes public transport and public roads;
3. Public order and citizens' security which includes fire protection, flood control, and real assets management;
4. Organizational activities aimed at solving local problems, for example, in the case of district local government – fighting unemployment, activation of local labor market, consumer right protection, supporting disabled people, and promotion of the district outside (Zieliński, 2004: 55–56).

The executive-administrative function of local government consists mainly in the exercise of the existing law by the local government bodies, issuance of certain legal norms as well as managing and directing the municipality (Kuta, 1992: 42). The issuance of legal acts focuses on acts which have a lower rank than a regulation, i.e. the acts of local law. Local government authorities are obliged to act based on the rule of law-abidingness, contained in the provision of Article 7 of the Constitution („The organs of public authority shall function on the basis of, and within the limits of, the law“), that is, to execute legal acts which concern them. Supervision over the activities of local government in terms of legality is exercised by the Prime Minister and the province governor (Kisiel, 2003: 30).

The local government's business function manifests itself, on the one hand, in the possibility of conducting, under certain conditions, economic activity by the local government, on the other hand, in the role of local government in the development of entrepreneurship on its territory. Pursuant to Article 165 of the Constitution, the municipality possesses legal personality and rights of ownership and other property rights. The Constitution is the guarantor of legally protected independence of local government (Journal of Laws of 1997, No. 78, item 483). These guarantees provide the basis for conducting economic activity by the local government.

Another manifestation of the realization of economic function of local government is its role in the development of entrepreneurship. The basis for such activity is mainly created by the Act on Freedom of Economic Activity of July 2, 2004. For example, Article 8, Paragraph 1 of the Act states that „Public

administration authorities shall support the development of entrepreneurship by creating favorable conditions for entrepreneurs to undertake and conduct economic activities, and in particular, they shall support micro, small, and medium-sized enterprises“ (Journal of Laws of 2004, No. 173, item 1807).

The last of the analyzed functions is the political function of local government. From the point of view of the interests of local community and the effectiveness of tasks realized by the local government it is not the most important function but rather inherent in the operation of this level of public administration. The political function of local government is mainly connected to the issue of elections to district bodies. It concerns both direct election of members of constitutive bodies and the executive body in the case of the municipality. The discussed element is also connected with staffing, creating major personal positions and functions in the office and its organizational units. An important determinant of this function is also the issue of the functioning of local government bodies, namely the impact of political factors on the decision-making process.

#### **5.7.6. Direct Democracy in Local Government**

In the process of execution of tasks entrusted to the local governments public authorities, constitutive and executive bodies play a key role. Residents of municipalities, districts and provinces have been authorized to make decisions in the popular vote – elections and a referendum (direct democracy), or through the authorities of these units (indirect democracy – representative). Referendum is an important way of residents' decision-making sanctioned by the Constitution of the Republic of Poland under the Article 170. It is also mentioned in the Act of September 15, 2000 on a Local Referendum (Journal of Laws of 2000, No. 88, item 985). It has a decisive, but not a consultative character. Through a referendum, members of the community express their will as to matters concerning their community. There are two types of referenda. The first of them is obligatorily organized in matters of self-taxation of residents for public purposes, and in cases of dismissal of a local government body which has been appointed in direct elections. This is a very important right as it gives the opportunity for dismissal of constituting bodies of the self-governing municipality, district and province before the end of term. This way of dismissal pertains also to the

municipality executive body, but in this case, the referendum can be carried out on the initiative of the municipal council. The other type is optional, and can be carried out on any other matter concerning the local community in the range of tasks and powers of the given local government body.

General elections are another manifestation of direct democracy. Constitutive bodies of all local government units have been elected in this way, and since 2002 also the municipal executive body. Principles and procedures for holding elections to councils and the province council are specified in the Act of January 5, 2011 on the Electoral Code (Journal of Laws of 2011, No. 21, item 112). Executive bodies of district and provincial governments are chosen through indirect elections, e.i. by a decision of councils and local councils of these units (Przywojska, 2014: 24–27).

### 5.8. Public Finances

Public finances are defined, firstly, as financial resource at the disposal of a public law entity, secondly, as a kind of mechanism which makes it possible for a public law entity to use the financial resources (Kępa, 1999: 73, Małkiewicz, 1999: 28–23). The Public Finance Act defines public finances in a similar way as processes connected with the accumulation and allocation of public resources. These processes, in particular, consist of: 1) collection of public income and revenue; 2) spending of public funds; 3) financing state budget the borrowing needs; 4) incurring obligations involving public funds; 5) management of public funds; 6) management of public debt; 7) settlements with the budget of the EU (Journal of Laws of 2009, No. 157 item 1240).

Finance is the most important instrument of local public administration operation. It would be impossible to realize any function without it. Public finance is closely related to the concept of financial activity of public administration, which involves collection and spending of financial resources in order to take them over and distribute them to public tasks, which are largely determined by the political factors (Jastrzębska, 2000: 29–30). We can distinguish four functions of financial activity in the public sector:

1. Fiscal function that is the accumulation of income;
2. Redistributive – distributive function consisting in the distribution of the gross domestic product;

3. Stimulation – stimuli function associated with the collection and spending of funds by the public sector;
4. Control-information function, which consists of automatic transmission of information on the regularities and irregularities in the area of financial activity (Keça, 1999: 73).

Apart from the financial activities of public sector, it is also worth paying attention to the general principles of public finance system which, in particular, refer to the local government sector. E. Kornberger-Sokołowska (2001: 3) divides them into three groups. The first includes the rules on the form of legal fundraising system for the execution of local government tasks. This group includes the rules of: 1) stability and certainty of income sources; 2) adequacy of resources to the completion of tasks; 3) efficiency and flexibility of income sources; 4) territorial location of sources of income; 5) minimization of disparities in income levels; 6) granting local governments the power to finance, including tax power; 7) access to the capital market; 8) development of the forms of district income redistribution with the participation of representatives of local government. The second group contains the rules of: 1) independent management of collected resources; 2) modification of basic budget postulates pertaining to the management of public funds at the central level. The last group of rules relating to the control and supervision of financial management of local government includes the rules of: 1) statutorily limited intervention in the sphere of financial management; 2) diversification of the audit scope and criteria depending on whether local government performs its own tasks, or outsourced ones; 3) consistent financial control system taking into account the effectiveness of social and economic activities carried out with the help of the financial instruments (Kornberger-Sokołowska, 2001: 78–79).

The importance of financial autonomy of local government in Poland will be analyzed in more details below.

### **5.8.1. Legal Guarantees of Financial Independence of Local Government**

Financial independence means primarily a constitutional transfer of the right to enact public revenues to local government. It also means the possibility to finance expenditure from its own revenues. An extreme concept of financial independence is defined as the complete separation of central sources

of income from local ones, which also excludes the possibility of subsidizing local budgets which can be supplied only with the revenues allocated to them (Młynarczyk, 1999: 35, Chojna-Duch, 1998: 334–335).

A. Bury divides financial independence of local government into income and expenditure independence. Income independence is associated with guaranteed possibilities to increase income, and obtain it from various sources and in various methods. In turn, expenditure independence means that each unit with given income is free in deciding on the method and type of spending (Bury, 2000: 21). Financial independence of local government is closely connected with the level of decentralization. E. Kornberger-Sokołowska (2001: 102) defines decentralization as: 1) transfer of public tasks to be implemented at the local level; 2) use by local authorities of the assets and rights that guarantee their independence, and ability to decide on public matters; 3) possession of adequate financial resources for the implementation of these tasks. Decentralization of tasks and competences, and transfer of assets are the basic premise of financial decentralization (Biley, 1999: 18–19, Wright, 1997: 43–45), the level of which determines the level of financial autonomy of local government (Kosek-Wojnar, 1995: 69; Glumińska-Pawlic, 2003: 44–59).

Financial independence is also associated with the issue of so-called financial power which, in addition to legal power, is an essential attribute of territorial self-government. Financial power is connected with the ability of local governments to collect revenues according to its own will and discretion in order to carry out tasks of local government. It is expressed also in shaping of appropriate policies, e.g. in terms of income, using public authority means. Just like financial independence, financial power should be considered on several levels: local government income, expenditure, budget, and creation of local government debt (Borodo, 2001: 134–136).

In order to determine the level of financial autonomy of local government, it is necessary to analyze its grounds contained in the provisions of the Constitution of 1997 which, giving certain rights to local governments, also determines the level of their financial independence. These determinants are:

1. The right to possess legal personality (Art. 165, Paragraph 1);
2. The rights of ownership and other property rights (Art. 165, Paragraph 1);
3. The right to have public funds adequate to the tasks (Art. 167, Paragraph 1 and Paragraph 4);



4. The right to sources of revenues specified by statute (Art. 167, Paragraph 3);
5. The right to taxation power consisting in setting the level of local taxes and charges (Art. 168);
6. The right to supply local government budget with own revenues, general subsidies, and specific grants from the State Budget (Art. 167, Paragraph 2);
7. Determination of the principles and criteria of supervision and control over the financial activities of local government (Art. 171, Paragraph 1 and Paragraph 2) (Kosikowski, 1997: 148–162, Miemiec, 1997: 212–218, Ofiarski, 2003: 121–140, Kosikowski, 1994: 98–100, Komar, 1994: 94–97).

The Constitution defined specific frameworks, rules governing local government finance, delegating the establishment of detailed regulations in this respect to ordinary legislation. With the introduction of the 1998 Local Government Reform, the system of public finance in Poland was also reformed. Originally, local government finances were settled, firstly, by the Act of November 26, 1998 on Public Finances (Journal of Laws of 1998, No. 155, item 1014), and, secondly, by the Act of November 26, 1998 on the Income of Local Government Units for 1999-2000 (Journal of Laws of 1998, No. 150, item 983), and also, partially, in self-government acts (on municipal, district and provincial self-government). The Act on Public Finance, which regulated both the issues of central finance of the state and the local government, set basic principles characteristic of the system of local government finances.

These principles are:

1. Principle of openness and transparency of public finances. The most important manifestations of this principle are: a) statutory requirement of the budget debate and the debate on the report on the implementation of the budget; b) requirement to disclose, in the case of districts, the management report on the activities relating to incurring obligations and issuing securities; c) obligation to publish certain opinions of the regional chamber of auditors (Gałkiewicz, 1999: 20).
2. Principle of reducing public debt. For local government it is connected with the constraints in incurring liabilities, loans, and the introduction of precautionary procedures.

3. Principle of increasing responsibility for spending public money. It manifests itself in the increasing catalogue of situations where local authorities commit a breach of public finance discipline, and at the same time, in the increasing number of sanctions for such violations.
4. Principle of responsibility of executive organs of local government units for the conduct of financial management. An expression of this principle is the regulation, according to which, e.g. the district council, cannot, without the consent of the district board, increase the budget deficit by increasing spending or reducing revenues.
5. Principle of equality of rights of all operators on the local market carrying out public tasks. According to it, any entity operating in the local area may apply for a grant from public funds for the implementation of a public task after submitting an appropriate offer for its implementation (Galkiewicz, 1999: 20–23).

The shape of local government finances after the Public Administration Reform in 1998 was finally established in the regulations of the Act of November 13, 2003 on Income of Local Government Units, which according to its initiators, was aimed at:

1. Further decentralization of public tasks and funds and the increase of the share of local government units in the disposition of these measures;
2. Increasing economic responsibility of local governments by enlarging the level of their own income;
3. Stronger binding of the financial situation of local governments with the level of development of the national economy;
4. Expansion of the absorption capacity of EU funds by increasing the flow of funds and more flexible rules of financial management of local governments;
5. Creation of instruments to promote entrepreneurship and supply of human capital with high qualifications (Guziejewska, 2005: 62).

### 5.9. Civil Service

The beginnings of the civil service system in Poland date back to the interwar period in which the fact that officials came from different partitions had different qualifications, and ethical models led to the lowering of

the moral level and growing corruption. Some of the measures, which were supposed to prevent it, were the establishment of the Inter-Ministry of Qualification Commission and the adoption of the State Civil Service Act (Wiater, 2015: 188). The first act, which comprehensively regulated legal and social status of the civil servant of the Second Republic of Poland, was the Act of February 17, 1922. This act, amended many times, was formally in force until December 31, 1974, when the Labor Code, adopted on June 24, 1974, came into force (Filak, 2016: 4).

The Constitution of the Republic of Poland defines the basis for the functioning of the civil service in Poland. Article 153 of the fundamental law proclaims that a corps of civil servants shall operate in the organs of government administration in order to ensure a professional, diligent, impartial, and politically neutral discharge of the State's obligations.

The superior of the civil service, in accordance with Article 153 Paragraph 2 of the Polish Constitution, is the Prime Minister who appoints the Head of the Civil Service. In this context, we should also evoke Article 7 of the Constitution which states that public authorities function is based on, and within the limits of, the law. The civil service operates based on administrative law, i.e. the legal norms governing the organizational structure and conduct of government administration as a part of the state apparatus as well as of individual natural persons, unless other legal provisions apply. Detailed rules for the functioning of the civil service are specified in the Act of November 21, 2008 on Civil Service amended by the Act of December 30, 2015 amending the Civil Service Act and some other acts (Journal of Laws of 2016, item 34).

The concept of civil service is defined as „a system of filling public positions and performing the duties of a public official based on the principle of professionalism, political neutrality, impartiality, and legalism. In the objective sense, it means clerical corps is formed because of these principles and having special professional status in the country (stability of employment on the basis of the appointment, privileged wage, and pension regulations). In the functional sense, it means such rules of administration personnel hiring and management which guarantee their high qualifications and efficient exercising of public duties by the state regardless of the changeableness of the political sovereignty over administration“ (Filak, 2016: 2).

The corps of civil servants is composed of persons employed in offici-

als' positions and government administration offices. The civil service corps consists of employees and civil servants (the distinction results from the legal regulations which shape the employment relationship – respectively labor law regulations and the appointment pursuant to the Act on Civil Service). As of December 31, 2014, it consisted of 120,412 members, including about 7,675 civil servants (Filak, 2016: 2).

A reference to the idea of the pre-war civil service appeared after the changes that took place in 1989. A manifestation of this was the establishment of the National School of Public Administration in 1991, and then passing of the Act on Civil Service on July 5, 1996. At the same time, this law applied only to officials appointed in the supreme and central organs of government administration and local organs of government administration. The situation changed with the adoption of a new Civil Service Law on December 18, 1998, the regulations of which applied to all government administration employees. Importantly, both Acts (of 1996 and 1998) in Article 1 referred to the principles of professionalism, reliability, impartiality, and political neutrality as binding for members of the civil service corps.

Significant changes in the functioning of the civil service were introduced on August 24, 2006 pursuant to the Acts on Civil Service, state human resources and high-ranking state positions. The Act on Civil Service excluded senior posts in the civil service from the subjective scope, and in addition, in accordance with Article 2 Paragraph 3, it provided for the possibility that clerical posts can be taken by „persons delegated or transferred on the basis of separate regulations to perform tasks outside the organizational unit in which they are employed if the transfer results from a special interest of the civil service.“

The idea of an impartial and politically neutral civil service pertaining to all government administration employees returned with the Act of November 21, 2008. The latest significant changes in the civil service system were introduced by the Act of December 30, 2015 amending the Civil Service Act and some other acts (Journal of Laws of 2016, No. 0, item 34).

The act introduced important changes to the functioning of the civil service:

- Senior positions in the civil service will be staffed, by appointment, by the authorized bodies;

- Change in the regulation of the status of persons holding senior positions in the civil service, including the abolition of the obligation to perform their preparatory service to be evaluated periodically, suspension of their duties by operation of law for the duration of detention, and finally, granting of a special duty allowance;
- Allowing the possibility of appointing to the post of the Head of the Civil Service persons who are not members of the civil service by abolishing the requirement to have experience in government administration (Journal of Laws of 2016, No. 0, item 34).

It should be noted that according to some legal communities changes introduced in 2016 in the system of the civil service adversely affected the implementation of the principle of political neutrality of civil service corps. On the other hand, the authors of the reform are convinced that they allow a more efficient operation of public administration, and eliminate frequent fiction in the process of hiring public servants.

### **5.10. Openness and Transparency of Public Administration Operations: Public Participation**

Analyzing the key issues associated with the process of public administration reform, openness and transparency, it is initially worth emphasizing the issue of communication within the public sector.

Krystyna Serafin (2013: 139–141) determined two levels of communication processes in public administration. The first level is the level of government administration, while the second level is the level of local administration. According to the author, two-way relationships and two-way flow of information occur between these levels. The two levels send and provide information to the media and directly to citizens.

At the level of government administration, a key element of internal information is communication between the government press offices and the government representatives in the field. Unfortunately, their activity is directed primarily at maintaining contacts with the media, and providing information to province governors coming both from the center and from the local media. Direct contacts with citizens are marginalized. Press offices discover their importance in times of crises and conflicts (Serafin, 2013: 139–141).

Communication at the level of local administration has greater importance and far more benefits, particularly for local communities. The applied communication methods, tools, and policy of local authorities determine the image of public administration, affect the development of civil society and the development of openness and transparency of public administration. At the same time, it eliminates the existing pathologies associated with the operation of local authority. The basis for the development of local democracy and civil society is the appropriate level of public participation. A. Janus (2004: 176) shares this view by claiming that institutionalized possibilities of social participation are conducive to the formation of civil society.

The possibility of active participation of citizens in decision-making on the future of territorial unit is a sign of democratization of social life in Poland. Systemic changes in Poland in the early 90s of the 20<sup>th</sup> century led to the formation of local self-government as one of the basic elements of a democratic state. A municipality and a district were created, i.e. local government units with the authorities elected by the local community, the operation of which was supposed, among other things, to bring the authorities closer to the citizen. More than 25 years of experience in the operation of local government in Poland has shown that the transfer of power to the local level was a very beneficial move, both in the economic sphere as well as from the social and political aspects.

In many local governments, we can observe the mechanism of strengthening ties between the local community and the local power elites – the „authority“ which directs the structure of administration, and needs public support for the implementation of basic tasks faced by the given unit. A way to create the conditions for increasing public participation in the decisions taken by the local authorities is in the creation of mechanisms for two-way communication between the local government and its inhabitants. This is manifested in mutual exchange of information between the office and the local community. Local government should widely inform the community about its actions as well as create the conditions for effective reception of information from the public concerning their opinions about, for instance, investments, general policy of local government, acceptance of planned activities, and expression of their needs and demands. The local community acquires the skills of functioning in public life if it has the possibilities to co-participate in decision-making processes (Chlivickas & Raipa, 2002: 117–136).

Citing J. Hausner (1999: 41), we can assume that public participation means participation of citizens in managing the affairs of the community that they are members thereof. In a broad sense, social participation is the foundation of civil society whose members voluntarily participate in public activities. In a narrower sense, this term means public partnership of local government and residents for taking actions in favor of local development (Górniak et al. 1999: 41, Horsman & Raynor, 1978: 239–253).

Adapting this concept to our considerations, participation can be defined as involvement which is associated with a process in which two or more parties cooperate in the preparation of plans, implementation of projects, and decision-making. With regard to local self-government, it manifests itself in expressing opinions, views in relation to actions taken by the local authorities through the institution of a local referendum, public debates, and meetings with the residents during which current problems are discussed. Work and public consultation on, e.g. local development plans, fit in this trend (Szot-Gabryś & Sienkiewicz, 2003: 128–130).

Social participation in terms of the cooperation of public sector with the non-governmental organizations (NGOs) and private sectors means the inclusion of NGOs, citizens, and local businesses in the process of solving local problems, and making key decisions concerning the local community. In this perspective, the representatives of local communities are co-authors of concepts and solutions pertaining to local policy. An effective program of public participation mainly means the application in practice of a two-way flow of information between administration and citizens, and the inclusion of local communities in the planning process.

The scope of two-way communication and public participation in local government is connected with the specificity of local problems. In Poland, a number of model solutions in the field of social participation have been implemented which were, in many cases, initiated (e.g. in the framework of Local Government Partnership Program (LGPP) in 1999), and funded by the US Agency for International Development. The program pertained to projects concerning social participation and communication in municipalities and districts with the participation of external consultants. The scope of these projects involved, among others, creation of organizational foundations of the system of social communication, and ensuring effective social com-

munication in the office, improving the flow of information between office employees and managers, preparation of a catalogue of services, improving information about the work of the office, development and preparation of a newsletter, improvement of direct contacts of local authorities with the residents, external promotion, institutionalization of cooperation between local authorities and the NGOs.

In practice, the process of participation is implemented in local government by creating plans of participation and communication, taking into account informing local communities, obtaining information from the community, conducting public consultation and co-participation of residents in the decision-making process (Jakubowska, 2001: 1).

### 5.11. Conclusion

One of the most visible trends in the evolution of political systems of the late 20<sup>th</sup> century was a phenomenon often referred to as a revolution in public administration which manifested itself in the process of reforming the public sector of modern states, and called for, inter alia, transformation or modernization of administration. The process of reforming the public sector should be seen as a multi-faceted phenomenon in which socio-economic, political, cultural, or ideological factors occur (Herbut, 1999: 9–11). The pressure of such factors is conducive to this process, becoming the motivation for its adoption.

In Poland, since 1989, i.e. since the beginning of the process of reforming administration, various categories of factors have affected individual stages of implementation of administrative reforms. The first stage of the reform, crowned with the creation of self-governing municipalities, was conditioned first by ideological or political factors. In contrast, at the core of the Public Administration Reform of 1998 were largely economic and social factors, and political factors to a lesser extent, which together defined the fundamental premise of this reform – the decentralization of public administration. An important factor was also the process of Europeanization of public administration and Polish integration in the EU.

The preparation of implementation of important reforms, particularly of systemic ones, should be done carefully in order to avoid frequently occurring risks, which a failed change could bring. Every administration reform is



burdened with the risk of costs and damages to be borne by a citizen or a local community or the state after its introduction.

We should share Gołuch's opinion that the currently functioning model of bureaucratic public administration is not able to meet the citizens' expectations. The form of the current model of public administration is a result of a number of reasons. One of them is the lack of a target concept of the State, which, as Adam Gołuch rightly says „[...] relied on earlier existing structures which have undergone a rather façade reconstruction on the basis of patterns found in European Union countries [...]“ (Gołuch, 2011: 150).

Today, the process of development of public administration is determined by the development of technology, globalization processes, and the development of modern management and marketing. We have to agree with Bobińska's thesis (2012: 53) that the development of technology has created new needs and necessities for new skills in making rational decisions, and the implementation of modern management and marketing concepts.

It should be stressed once again that the analyses of the efficiency of public administration operation in Poland point to the existence of many problems having a negative impact on the implementation of the function of public administration, the satisfaction and quality of life of society. The studies conducted often show that a key issue is not, for instance, a bad administrative law or administrative proceedings but the moral level of officials and their approach to the given case. Frey (2007: 190–200) rightly says that an important role in this respect is played by mental conditions. According to the author, without changing the old, bad habits we will not be able to talk of positive changes in the sphere of relations between the administration office and the citizen in Polish administrative proceedings. The author also claims that the reason for this state of affairs is the fact that in Polish public administration offices attention is mainly paid not to the quality of service but to the number of cases handled by the functionary.

The analysis of the assumptions and functioning of public administration in Poland is undoubtedly related to the analysis of the implementation of objectives of the administration reform. They were supposed to consist in:

- Expansion of mechanisms of civil society, democracy, and social control of actions;
- Creation of political career path;

- Greater efficiency of institutions providing public services at the local level;
- Standardization of costs and consequent increase in the rationality of public spending;
- Reconstruction of public finance system in the direction of increasing its integrity and decentralization to achieve its better connection with collective needs;
- Ordering competences of public administration, improving the information flow;
- Creation of better institutional conditions for the protection of public order and collective security;
- Acceleration of economic development (Gąciarz, 2004: 109).

Based on results of conducted research and analyses it can be concluded that the results achieved and indicators related to the functioning of public administration in Poland, in particular local government, do not allow unambiguous confirmation of the achievement of these objectives.

We can agree with Michał Kulesza who wrote: „in 1999, a structured three-level division was introduced in Poland. There are municipalities, districts, and provinces.“ However, despite many changes that have been introduced to the legislation and administrative practice in the last several years, the practice of functioning of the governmental and self-governmental subsystem of public administration shows that we can only partially agree with the next words of one of the founders of the concept of the reform (Kulesza, 1999: 2): „And this operation is successful”.

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## 6. Public Administration Reforms in Slovakia

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### 6.1. Introduction

Slovakia is one of the youngest countries in the world. It has been established on January 1, 1993, as a result of splitting of former Czechoslovakia, thus becoming an independent sovereign, democratic unitary state based on the Rule of Law (Constitution of the Slovak Republic).

With the exception of some short periods in early medieval times, Slovaks did not have their own state before 1918, and for more than 1000 years belonged to the Austrian and Austro-Hungarian monarchies. In 1918, the first independent Czechoslovak Republic was established as a unitary state of two nations – Czech and Slovaks. This state split as a result of Second World War developments into the „Protectorate of Czech and Moravia“and the Slovak Republic, dependent on fascist Germany. A history of Czechoslovakia continued again from 1945 with an important shift from unitary to federal state in 1968. The split of Czechoslovakia in 1993 was an unavoidable result of the transformation processes but an excellent example of the democratic and friendly separation of two different partners looking for their own way to overcome all barriers of complicated transition.

The Slovak Republic is situated in the center of Europe and covers an area of 49,034 sq km. The state borders with the Czech Republic, Poland, Ukraine, Hungary, and Austria are 1681,9 km long. The total number of inhabitants of the Slovak Republic is about 5.5 million. The largest city and the capital of Slovakia is Bratislava. The country is characterized by fragmented settlement with a total of almost 2900 municipalities, out of which about 2500 municipalities have fewer than 2000 inhabitants each (Statistical Yearbook, Slovakia, 2014).

The Slovak Constitution was ratified on September 1, 1992, became fully effective on January 1, 1993, and changed in September 1998 to allow direct election of the president, and further amended on February 2001 to allow Slovakia to apply for NATO and the EU membership.

The head of executive branch is the President, elected by direct, popular vote for a five-year term. The head of government is the Prime Minister. The Cabinet is appointed by the president on the recommendation of the prime minister. The legislative branch is represented by unicameral National Council of the Slovak Republic (“Narodna Rada Slovenskej Republiky”) with 150 seats; members are elected on the basis of proportional representation to serve four-year terms. The judicial branch is represented by the Supreme Court (judges are elected by the National Council) and Constitutional Court (judges appointed by president from a group of nominees approved by the National Council).

The concept of public administration of the country is unclear and not defined by any existing official document. A very typical feature of it is over-legalization, i.e. the will to solve existing problems by legislative changes through the legal system. This, in combination with the use of many New Public Management (NPM) instruments, creates a very specific mix with several deficiencies, some of which are highlighted in the respective sub-chapters.

In the following chapter we describe main public administration reform (PAR) trends and changes in Slovakia, and explain their character. The first chapter deals with the sequence and character of public administration reforms in Slovakia. It describes the historical legacy of public administration reforms, realized reforms with their contents and character, and evaluates the character of PAR in Slovakia. The second chapter deals with the implementation of selected NPM tools during the PAR. The focus is on marketization of service delivery systems and agencification. The selected examples are as follows: scale and results of externalization in local public service delivery, financing of education, competitive social health insurance system, and agencification. The third chapter presents the civil service reform. The creation of the Civil Service Office and its later abolishment, and current developments are described there. The last chapter highlights selected elements of administrative services and procedures. The problem of inefficient administrative services, “red tape”, and complicated administrative processes still remain the target for future steps of PAR in Slovakia. Some visible improvements include the recent ESO reform (one-stop shops are step-by-step being established to ensure contact between citizens and state administrative functions).

## 6.2. Sequence and Character of Public Administration Reforms in Slovakia

### 6.2.1. Historical Legacy of Public Administration Reforms

The period of the first modern state of Czech and Slovaks was characterized by the democratic development of the civil service system in a market economy which became an integral part of the trends towards the development of democratic systems of governance in Europe, based on impartial and professional public administration – with some features inherited from the Austro-Hungarian public administration – like “Weberian” bureaucracy and legalism (For example, see Janas, 2007; or Sutaj, 2003).

After the Second World War, Czechoslovakia was re-established as the unitary democratic state. The Communist Party played very important role in the political system, and won democratic elections in 1947. In February 1948, it had all powers of the state in its hands.

February 1948 was the beginning of the period of centralized „socialist“ (post-Marxist) state, based on so-called „socialist democracy“ and planned economy. During this period, many principles of modern democratic public administration were ignored, and the system became the servant of the Communist Party. Real local self-government structures did not exist and were organized together with local state administration structures in so-called national committees. Most important aspects of totalitarian public administration were (Nemec, 2001) lack of control of consumers/public over the civil service system, absence of consumer-generated quality control because of lack of accountability to the public, and loyalty to the political system instead, partial and also formal separation of executive and legislative powers (Federal Assembly and Federal Government at the central level, and National Committees that represented the system of combined state administration and self-government institutions at the local level), real dominance of political power of the Communist Party over all sub-systems of public administration (based on non-democratic elections, system of „nomenclature places“ in all sectors, and system of „party cells“ that influenced and controlled each important decision). This situation guaranteed that each institution of public administration and each public servant followed the directions, resolutions, and ins-

tructions of the Communist Party. The Constitution defined the Communist Party as „a leader of the society and the state“. Citizens were provided with a limited possibility to control the quality of public services as the system of „socialist democracy“ included some kinds of accountability of politicians and bureaucrats to citizens and specific rights of citizens to control the civil service system – but all within the Communist Party controlled mechanisms (system of Communist Party analyzed all kinds of appeals, and in the case of important malpractice of politicians or civil servants, concrete measures to improve their performance were undertaken).

The fact that bureaucracy was not “classic” monopoly but servant of the Communist Party partly limited the possibility to abuse position of civil servants for reasons of personal gain. The abuse of top bureaucratic and political position to get tangible benefits was also, in some way, limited by long-term perspective of remaining in this, or a similar position (most of them who came to top positions remained there for a whole life).

This system was radically changed after the Velvet revolution but its selected features still influence the “quality” of public administration in the country (especially accountability, responsibility, and efficiency principles).

### **6.2.2. Developments – Realized Reforms and Their Contents and Character**

The first reform measures were orientated mostly at the local level, based on the conceptual document „Proposal for the Reform of National Committees and Local State Administration“, and discussed by the government of the Slovak Republic on June 6, 1990. Implementation of this first reform wave was oriented mostly toward creating real self-government institutions, dividing executive and legislative powers on all levels, changing the territorial structure of Czechoslovakia, and restructuring the central government and the system of control in the public sector (Bercik & Nemeč, 1999).

The government of the Slovak Republic decided by the governmental resolution of June 6, 1990 to abolish the system of national committees of December 31, 1990, create self-government structures in each municipality (including those which did not have national committees or became independent, by splitting for example), organize direct self-government elections in November 1990, split self-government and state administration functions,

and organize new local bodies of state administration (general and specialized bodies), apply vertical superiority and subordination, and create larger territorial areas instead of previous districts (due to the complicated reform process this last expected measure was not realized).

Based on this decision, self-governing municipalities with a high level of independence were established by the Law No. 369/1990 Coll. on Municipal Administration of January 1, 1991. And based on this change, local self-governments became fully-fledged policy decision-makers at the local level with their own budgets and bodies, equipped with the exclusive right to take decisions independently, and act in all matters pertinent to the administration of the municipality and its property, if a special law would not assign such acts to the State, other legal bodies, or natural person. The core responsibilities allocated to municipalities were: management of movable property and real estate in the ownership of the municipality, providing for public order in the municipality, local public transport in big cities, construction, maintenance management of local roads and parking places, responsibilities pertaining to public spaces, public green spaces, public street lightning, market places, cemeteries, local water resources and wells, water supply networks, sewerage and water cleaning establishments in small municipalities, construction, maintenance management of local cultural establishments, part of sport, leisure and tourist establishments, infant care homes, part of ambulatory health service establishments, basic social service establishments, education support, nature and heritage protection, culture and creative hobbies, physical culture and sports, humanities activities, municipal police forces and fire service (Nemec, Bercik & Kuklis, 2000).

Changes in state administration were governed by the Act No. 472/1990 Coll. on the Organization of Local State Administration. A new system of general local state administration implemented by 38 district and 121 sub-district offices was created. At the same stage of the reform many institutions of locally specialized state administration bodies were created, like school offices, health offices, environmental protection offices, fire departments, and many others. This division of local general and specialized state administration became very soon the object of large criticism because of a division of local state administration into many separate, relatively independent units (Mesikova, 2008).

### **PAR Reforms in 1996**

Because of critical political instability in the period of 1990–94 many measures of PAR were postponed. From 1990 to 1994 five governments were in place in Slovakia as follows:

- from June 1990 under the Prime Minister Meciar,
- from April 1991 under the Prime Minister Carnogurský,
- from June 1992 under the Prime Minister Meciar,
- from March 1994 under the Prime Minister Moravčík,
- from December 1994 under the Prime Minister Meciar.

The second wave of the PAR in Slovakia was based on government programmatic statements of January 1995 but focused mainly on “organizational” changes – change from specialized to general local state administration, change of territorial and administrative structure of Slovakia, and creation of regional self-government structures (Machyniak, 2013; or Kosorin, 2003).

The Law on the Territorial and Administrative Structure of the Slovak Republic and the Law on Organization of the Local State Administration were adopted in 1996. They created a new territorial structure of the state with 8 regions and 79 districts, and new institutions of local general state administration – regional and district offices that deal with policy implementation in 32 policy areas (switched to the system of general state administration).

### **Decentralization Reforms 2000–2005**

The main idea of this period was a belief that decentralization would solve all inefficiencies in the public administration system (Strategia decentralizacie a reformy verejnej spravy, 1999). The start of the reform was postponed many times because of lack of political consensus between political parties, and only massive interventions of the Prime Minister Dzurinda in beginning of 2001 pushed the processes forward. After this, in very (too) short time all expected basic legislation was approved by the Parliament: Civil Service Code, Public Service Code, Law on Creation of Territorial Self-Governments, Law on Elections of Territorial Self-Governments, Law on Transfer of Competencies of the State to the Regional and Local Self-Governments, amendment of the Law on Municipalities, amendment of the Law on Municipal Property, Law on Property of Territorial Authorities, amendment of the Law on Budgetary Rules, and the law on Financial Control and Audit (Zarska & Sebova, 2005).

The most visible change was the Law No. 302 of 2001 – valid since 2002,



under which eight higher territorial units – self-governing regions were established, and started to work within the region borders as set in 1996. The Act on Municipalities was substantially amended, whereby the autonomous status of municipalities was significantly strengthened (Nemec & Bucek, 2012; or Kovacova, 2010).

The important Law on Transfer of Competencies defined the set of competencies to be transferred to regional and local self-governments. According to it a really large number of competencies has been transferred in the period of 2001–2002. Municipalities got new responsibilities in areas of road communications, water management, *citizenship* evidence, social care, environmental protection, education (elementary schools and similar establishments), physical culture, theatres, health care (primary and specialized ambulatory care), regional development and tourism. While regional self-government became responsible for the competencies in areas of road communications, railways, road transportation, civil protection, social care, territorial planning, education (secondary education), physical culture, theatres, museums, galleries, local culture, libraries, health care (polyclinics, local and regional hospitals), pharmacies, regional development, and tourism. A large set of these competencies was re-allocated from direct ministerial responsibility (hospitals, education, etc.).

The reform transferred massive set of responsibilities to local and regional self-governments but did not introduce other crucial elements of decentralization, mainly real fiscal decentralization – new responsibilities were financed by grants and not by the self-governments (Kozovsky, 2005).

Furthermore, the “Project of Further Public Administration Decentralization for 2003–2006” was adopted by the national government, focusing on two main aspects:

- a. Fiscal decentralization (massive transfer of responsibilities was followed by changing of fiscal system of the country),
- b. Changes of state administration system (change of territorial structure of administrative bodies, and change from general to specialized deconcentrated state administration).

Following given proposals, a new legislation was adopted in 2003 and 2004 (Niznansky & Hamalova, 2013). District state administration offices were abolished, and the system of local state administration diminished and converted from general offices (responsible for all competencies) to speciali-

zed offices (like school offices, social protection offices, etc.).

The follow-up changes of 2007 built on a series of reforms implemented after the admission of the Slovak Republic to the EU in 2004. Pursuant to the Act 254/2007 Coll., regional offices of the sectoral scope of the Interior Ministry were abolished as of September 30, 2007. The scope of their activities was passed to the sub-district bodies and relevant ministries (Machyniak, 2013).

### **ESO Reform**

In their Program Declaration for 2012–2016, the Slovak Government (SR) committed themselves to adopt measures to make public administration performance more efficient and advanced. The ESO Programme (Efficient, Reliable and Open State Administration) was approved by the government of the SR in April 2012.

The changes in this phase included:

- a. Switch from specialized deconcentrated state administration into a general one. Pursuant to the Act No. 180/2013 Coll., the district offices of integrated local state administration were re-established in 72 locations (Bratislava and Košice had one district office each with the territorial scope covering all the districts of these cities). Few specialized bodies were preserved – Police Force, Fire and Rescue Corps, Mining Office Board, Labor Inspectorate, Financial Administration, Monuments Board, State Trade Inspection, Veterinary and Food Administration (Machyniak, 2013);
- b. Establishment of one-stop shops 2014–2015 (not finished yet);
- c. Optimization of administrative processes and administrative structures (including e-government development) for the period of 2014–2020.

The structure of main goals indicates that the focus of this reform was not only on structural changes, but to some extent, also on the improvement of administrative services – e-government development supported by the EU funds, and creation of one-stop shops (we discuss this dimensions of the ESO reform in specific chapter later on) – as the reform vision (Office of Government, 2012) states:

“Any citizen or business is able to administer all specialized transactions with the state in a simple way and with minimum costs. In contacting the

state any citizen or business is able to use electronic means and, if in direct contact with one office, there is no need to visit also other offices to obtain additional materials. State administration is simple, understandable, and accessible. State administration is “small”, flexible, sustainable, transparent, and functions with minimum costs”.

### 6.2.3. Summary – Character of Public Administration Reform in Slovakia

The brief summary of changes implemented (it is difficult to speak about the reforms for some of the above-mentioned measures) provides the base for synthetic evaluation of the character of PAR in Slovakia. We deliver this synthesis in more dimensions.

Two Dimensions of PAR in Slovakia: Zigzag “Administrative” Reforms but Progressive Decentralization Changes

At the level of state government, the entire period of 1990–2016 is marked by non-systematic changes in the management from specialized to general deconcentrated state administration and vice versa (Table 6.1). These changes accompanied territorial changes, and did not bring a greater efficiency of its functioning nor significant improvement of public services provided to the citizens.

**Table 6.1:** Zigzag “Administrative” Reforms

Year	Change
1990	Specialized deconcentrated state administration system established New administrative structure established (district and sub-district offices)
1996	General deconcentrated state administration system established New administrative structure established (regions and districts)
2004	Specialized deconcentrated state administration system established New administrative structure established (district offices abolished)
2007	New administrative structure established (regional offices abolished)
2014	General deconcentrated state administration system established New administrative structure established (district offices re-established)

*Source: own construction.*

However, during 1990–2006, a strong sub-national self-government system was created in Slovakia. Municipalities and self-governing regions were fully independent bodies equipped with powers to manage their own deve-

lopment (Niznansky, 2005). According to the recent 2016 Resolution of the Congress of Local and Regional Authorities adopted by the Council of Europe that is based on the monitoring visit in the country, it clearly states that the Slovak local self-government system is in almost full compliance with the principles of the European Charter of Local Self-Government. The monitoring report highlights only really minor issues to be reflected in future – except of fragmentation.

### **Role of New Public Management (NPM) in PAR in Slovakia**

The interesting feature of PAR in Slovakia is the fact that the reform wave 1998–2006 implemented by the right wing coalition significantly promoted private sector solutions in the public sector and decentralization. Many sectoral reforms were influenced by NPM ideology, for example in primary and secondary education “quasi market” with student vouchers and full plurality of all ownership forms were created. However, such NPM approaches were not consistent everywhere, and NPM was also never explicitly mentioned by the government and reformers, as the ideological base for changes (Nemec, 2008).

Left wing governments (i.e. Prime Minister Fico) formally and strongly opposed to private solutions in the public sector, and during the period of 1998–2006, some public sector changes were partly reverted or redesigned (abolishment of user fees in health care, ending of the establishment of new private universities, stopping privatization of hospitals, prohibiting profit for health insurance companies, more direct state control in utility sector, etc.) but most of NPM solutions remained without changes even until today (performance financing, program budgeting, public private mix in delivery of public services, or public private partnerships project in infrastructure area).

### **External ideas, Pressures and Advice**

External ideas and pressures were only relatively important factor influencing reforming of public administration system in Slovakia. Certainly, the most important was the EU accession process, even though public administration was not explicit independent part of negotiations. As a part of the accession process many general and sectoral changes were implemented in Slovakia, especially in following areas:

- Creating of necessary regulatory agencies (see details below),
- Improving the system of financial control and audit,

- Establishment of the civil service system (see details below),
- Fiscal decentralization and establishment of self-governing regions (see details above and below).

In this part we only briefly mention the Law 502/2001 on Financial Control and Internal Audit. This law introduced major changes within the system of public sector control – especially by mentioning, for first time in Slovakia, that efficiency, economy, and effectiveness represent three core and interconnected pillars of evaluating performance of public sector organizations. However, in its early stage, the law suffered from lack of understanding of these principles – for example, effectiveness was defined as the “conformity of operation with the plan” (for more see Nemec, 2011).

The EU allocated important sums of resources to support PAR in Slovakia. In pre-accession phase Slovakia was allocated ECU 6.5 million in Phare assistance exclusively devoted to PAR in 1991–1997 programs (EC, 1999). This represented 3.8% of the total sum of ECU 173.5 million allocated to Slovakia for all Phare programs in this period. This allocation covered the following programs: SR9409 Public Administration (ending on 12/31/97) with ECU 2.0 million, SR9515 Public Agencies (ending on 7/31/98) with ECU 3.2 million, and SR9516 Public Agencies (continuum) with ECU 1.3 million. After the accession, Slovakia did not use any EU funds to cover costs of PAR in the post-accession phases. This changed in the previous and current programming period where allocations were requested and provided (see details below).

To improve the capacity of Slovakia to implement PAR in pre-accession period the main supporting body was SIGMA-OECD program – Support for Improvement in Governance and Management program represent a joint initiative of the OECD and the EU. Its key objective is to strengthen the foundations for improved public governance, and hence support socio-economic development through building the capacities of public sector, enhancing horizontal governance, and improving the design and implementation of public administration reforms, including proper prioritization, sequencing, and budgeting. SIGMA today focuses only on the EU Enlargement countries and the EU Neighbourhood countries but in the pre-accession period this body was the main source of know-how for all partial changes necessary to be realized before the accession (for example, already since 1992 SIGMA OECD supported the preparation of the public procurement laws – Slovakia

was the first CEE country with such a law in force since 1993).

The other important fact to be mentioned is Slovak signature to the European Charter for Local Self-Government, thus accepting obligations in promoting subsidiarity principle and its realizations. All aspects of local and regional government are influenced by this signature – as already indicated, through the Slovak participation in activities of the Congress of Local and Regional Authorities of the Council of Europe. Slovakia signed the Charter in 1999 (coming in force as the source of domestic law form in 2000 after ratification) – but with many reservations (Slovakia declared to be bound by the provisions of the Charter as follows: Article 2, Article 3, Paragraph 2, Article 4, Paragraphs 1, 2, 4 and 6, Article 5, Article 6, Paragraph 1, Article 7, Paragraphs 1, 2 and 3, Article 8, Paragraphs 1, 2 and 3, Article 9, Paragraphs 2, 3, 4 and 8, Article 10, Paragraph 1, and Article 11). The first monitoring report form of 2001 highlighted many deficiencies which were reflected step by step (especially by the decentralization reform), and such progress allowed full acceptance of the Charter (in 2002, Slovakia accepted Article 6, Paragraph 2; and on May 21, 2007. all other provisions).

A great deal of foreign help was sought in preparing the first PAR, particularly in the phase of analysis and need definition but rather less in the execution phase (i.e. the preparation and implementation of concrete changes). The main foreign actors (except for the above-mentioned SIGMA OECD) were UNDP, World Bank, British Know-How Fund, and also a number of support programs from developed countries (like Germany and Canada) were implemented. Some supportive programs (especially World Bank support to public financial management, health care, and pension reforms) were relatively liberally orientated and tried to implement several market type mechanisms into the public administration system in Slovakia (Nemec, 2008).

### **“Elite-driven” Reforms**

Different from starting reform phase, where a lot of consultation was required, 1996–2006 PAR were very much elite-driven and top-down reforms. The reformers tried to hide this, for example by holding public meetings and discussions, but all decisions were clearly prepared and predefined, based on liberal ideology, by a small elite group. The main body behind the 2000–2006 reform was liberal think tank MESA10, clearly placed on the right wing of the political spectrum (Democratic Party), indirectly connected to the main

political lobbies, and also supported by a lot of foreign finance focusing on promotion of “free market” solutions. A relatively small group headed by V. Niznansky prepared a basic concept of the reform. Proposed reform strategies were discussed at many public meetings, and consultations with foreign experts (supported by the comprehensive PHARE program) were also held. However, in practice different voices were not taken into the account. One of the main problems at this phase was exclusion of the Ministry of Interior (responsible for public administration) from the entire process. Under these circumstances, the political and parliamentary discussion about the reform strategy in Slovakia, as could be expected, focused mainly on political rather than factual aspects of the reform, with protracted debates on the number of regions and the election system (Nemec, 2008). Recent ESO reform has partly similar character – the only difference is the fact that the Minister of Interior is fully involved.

### **Decentralization versus Fragmentation**

The territory of the Slovak Republic has been always highly fragmented in terms of the number of municipalities. For instance, there were 3,473 municipalities in 1921 or 3,237 in 1961. The lowest total number of municipalities (2,669 municipalities) in the Slovakia territory was in 1989 but this number increased up to 2,891 over the next following decades.

The average municipality population size of municipality in Slovakia is only 1,870 inhabitants, and concerning an area size, the average Slovak municipality has approximately 17 km<sup>2</sup>. Only two cities (Bratislava and Košice) have a population size over 100,000 inhabitants, and seven other cities have a population size over 50,000 inhabitants. Almost 70% of all Slovak municipalities have less than 1,000 inhabitants (Klimovský, 2014).

The fact of large territorial fragmentation is significantly connected with the decentralization process problems. The theory (see for example the contents of papers from recent Istanbul conference on the topic – Gyomen & Sazak, 2014) is not able to define any “optimum” size of municipalities, but it is obvious that too small self-governments have limited administrative capacity to manage a very broad set of allocated and delegated responsibilities (all of them are, for example, responsible for delegated state administration in primary education or building permits – and such tasks require necessary capacities).

Because the forced municipal amalgamation at the central level is still

politically impossible, the only viable option to cope with possible economic and implementation problems connected with municipalities, which are too small, is inter-municipal cooperation; however, this mechanism is insufficiently supported and promoted by the state (Klimovský, 2015; or Tichý, 2005).

The municipalities' right to cooperate has already been implemented in Slovakia since 1990. The basic legal provision on the IMC is explicitly mentioned in the Constitution of the Slovak Republic (No. 460/1992). More detailed legal provisions are written in the Municipal Act. According to the legislation each municipality is entitled (within the performance of their own powers) to cooperate with other territorial and administrative units as well as with the authorities of other countries which carry out any local functions. Municipalities also have the right to become a member of international associations of territorial units or territorial authorities. Despite the fact that there is no special law on the IMC in Slovakia, the Ministry of Interior of the Slovak Republic published a methodical instruction on establishing joint municipal offices in 2002.

The main forms of inter-municipal cooperation are: agreement on the performance execution of task/s; agreement on the establishment of a joint municipal office; agreement on the establishment of municipal association; agreement on the establishment of a legal entity; and agreement on the establishment of an association of legal entities (see for example Klimovsky, 2014).

### **Partnerships**

As seen in previous chapters, the PAR in Slovakia (except for its starting phase) is, to a great extent, based on the ideas of party policy, interest groups and elite-. This, together with other factors (like limited accountability – see for example Vesely, 2013) limits the “quality” of partnerships of the public administration bodies with all main stakeholders.

Existing research clearly documents the fact that the will of all levels of government to involve stakeholders in decision-making and service delivery process is rather limited. This fact can be documented by the research of Vitalisova (2015). She mapped the level of cooperation/non-cooperation of municipalities with stakeholders. Despite the fact that answers of municipal representatives are certainly positively biased, half of municipalities claim that they do not cooperate with universities (universities are located in all parts of the country, so this is not territorial availability problem), only about 60% of municipalities cooperate with local businesses, and only 70% clearly showed the



will to cooperate with local non-governmental organizations (the limited cooperation between self-governments and the NGOs is also documented by our research – see for example Svidronova, Nemeč & Mikusova Merickova, 2015).

### **6.3. “Marketization” of Delivery of Public Services, and Agencification**

Before 1989 almost the entire organizational structure of public service delivery was ‘owned’ and operated by the socialist state. This system progressively changed during the respective phases of PAR, and the private (partly also non-profit) sector is today a major player in service delivery. The switch to public private non-profit sector delivery of many public services is not connected to the liberal reform period (2000–2006) as one might expect on the base of the previous chapter.

Most changes happened already in earlier stages of PAR – we present the examples of local communal services, education and health care in the next three sub-parts of this chapter. The second wave of “marketization” is dominantly connected with the EU accession and agencification – its main aspects are described in the last sub-part.

#### **6.3.1. Local Communal Services Delivery: Massive Externalization**

As indicated above, local public services represent a clear example of the mixture of all ownership forms participating in their delivery – and the main changes happened before 2000, where the existing data sets start. Majlingova (2005) mapped the system of municipal waste management (these data, with minor changes, are actual also today). The Table 6.2 shows the structure of service suppliers.

Data presented by Majlingova (2005) show that externalization was rather frequent already at the beginning of this century but may not deliver cost savings (with the exception of municipal association performing really well). Our data provide the same picture. Table 6.3 documents the scale of contracting selected local services to private producers by our research samples – contracting was realized in a massive way already in 2000, when our data start, and its scale remains more or less stable, depending on the sample (larger municipalities contract more frequently than their smaller counterparts).

**Table 6.2:** Profile of Organizations Providing Waste Management Services in Slovakia Ranked in Ascending Order of Cost to the User (situation in 2003)

Institutional form / Size	<1,000	<5,000	<10,000	<30,000	<50,000	>50,000
<b>Municipality-owned (internal)</b>						
Municipal house staff	4-5	11	3		2	
Municipal budgetary org.	8					
Municipal semi-budgetary org.		6	7	3	1	
Municipal limited company		2	1	4	4	
Municipal shareholder company	2	8				
<b>Publicly-owned (external)</b>						
Public non-municipal budgetary org.	3	7				
Public non-municipal semi-budgetary org.		10				
<b>Privately owned (external)</b>						
Private individual	4-5	9				
Limited company	6	4	6		3	1
Share company	7	5	4	2	6	
<b>Mixed</b>						
Mixed limited company		3	2	5	5	2
Mixed share company						3
Municipal association	1	1	5	1		

Source: Majlingová, 2005: 98.

**Table 6.3:** Percentage of Contracted Local Public Services

Service	2001	2005	2006	2008	2009	2015
Waste	49	64	69	80	80	75
Cemeteries	27	12	16	13	13	75
Public green areas	16	18	33	14	6	56
Communications	21	41	45	38	55	78
Public lighting	30	35	40	39	38	78

Source: own research.

Table 6.4 calculates the index of production efficiency for each service category, comparing the costs of delivering services from contracting to internal production. Using the average costs of internalized services as the base (= 100), the index scores are constructed by taking the ratio of costs for outsourced services to costs for internalized services (measured per inhabitant per year), and multiplying by 100 to normalize the charts. Majority of index scores are above 100, indicating that the costs per inhabitant of service delivery were higher under contracting out arrangements compared to internalized production arrangements.

**Table 6.4:** Comparative Efficiency Index for Contracting vs. Internal Production (Internal Form = 100)

Service	2005	2006	2008	2009	2015
Waste management	94	125	184	60	210
Cemeteries	13	67	146	66	422
Public green areas	192	150	151	133	135
Maintenance of local communications	109	119	114	104	130
Maintenance of local lighting	138	128	156	127	81

*Source: own research.*

The data collected indicate that contracting does not deliver clearly positive outcomes (compared to the expectations in the existing NPM literature). The direct supply made by the public organizations is in many cases more efficient and (as our other own data document – see for example Merickova et al., 2010) of a higher quality compared to external production. However, we need to be aware of several methodological problems connected with our research. The core problems are the reliability of the data since the data collected from municipalities are imperfect because their cost monitoring is not sophisticated. They do not use cost centers accounting, and so cannot know the real cost of service delivery. With internal service delivery, the reported service costs only cover direct costs, and so are likely to be too low. However, all our research documents show that the results of in-house versus external production of local public services depend on concrete local conditions, attitudes, and goals of local self-governments, and not on NPM paradigm of the preference of private ownership.

### 6.3.2. Education – Student Vouchers at Primary and Secondary Level and Performance Financing of Higher Education

From the point of ownerships, the education at all levels in both republics takes the form of a mixed system with public and private delivery, although the public sector is clearly the dominant player. The main pro-market feature is the method of financing – funding is currently based on a performance-based formula at all levels.

Primary education is a mixture of own (original) and delegated responsibility of municipalities (as the original responsibility municipalities finance local art schools and catering of all pupils), and the largest part of their expenditure. A formula-based funding system in which the number of pupils is the main determinant of resource allocation represents Slovak form of student vouchers financing system – resources follow the number of pupils / students enrolled. Existing private schools can charge fees but are also eligible for state subsidy. Secondary education is under the responsibility of regional governments, and is delivered under the same financial system.

In higher education, public and private schools also co-exist but in a different way – private high schools are not eligible for state grants (thus may receive some support only in very specific cases) – their core revenue comes from the student fees (for more on this topic see for example Nemeč & Sagat, 2007).

The revenues of public higher education establishments in Slovakia consist of two main sources – public grants/transfers and their own incomes. From the beginning of this century, the allocation of public grants in the Slovak Republic is based on the formula used for performance system of financing of universities, as one of outcomes of public finance reform, namely of introducing of program budgeting. In its beginning, the system was as follows:

#### *Program of Higher education, Science and Social Support to Students*

- Sub-program: *Higher education* – grant to finance accredited study programs;
- Sub-program: *Higher education science and technique* – grant to finance research and development;

- Sub-program: *Higher education development* – grant to finance development needs;
- Sub-program: *Social support for students* – grant to provide support to students;
- Sub-program: *Targeted transfers*.

Source: Ministry of Education

Universities transparently “competed” for public resources mainly in the first two sub-programs. In the first one the only factor used was the number of students (weighted by “unit costs per student” different for different universities). Research grants were allocated by an open competition within the existing programs (mainly VEGA and KEGA programs).

The results of the first phase with dominant focus on the number of students (Table 6.5) caused too important pervasive effects – we may argue that it acted against a better quality, and simply caused an increase in the number of students.

**Table 6.5:** Public Transfers to Public Higher Education 2002–2006 (mil. SKK, current prices)

	2002		2003		2004		2005		2006	
Grant to finance study programs	5,825	78.3%	6,660	80.1%	7,460	79%	8,023	77.5%	8,745	76%
Grant to finance research & development	584	7.9%	638	7.7%	948	9.1%	1,066	10.3%	1,119	9.7%
Grant to finance development needs	378	5.1%	370	4.4%	330	3.5%	450	4.3%	500	4.3%
Grant to provide support to students	648	8.7%	650	7.8%	700	7.4%	810	7.8%	1,150	10%
Total	7,435	-	8,318	-	9,438	-	10,349	-	11,514	-

Source: Ministry of Education.

All managements of public higher education establishments started to maximize the level of public grants by maximizing the number of accepted students. The outcome is visible in Table 6.6.

**Table 6.6:** Number of Newly Accepted Higher Education Students in Slovakia

	1990/91	1995/96	2000/01	2001/02	2002/03	2003/04	2004/05	2005/06
New full time students	13,404	20,809	24,279	24,270	26,974	24,150	32,488	35,542
% of new full time students from 18 (19) old population	15.9%	21.8%	27.2%	27.2%	30.4%	27.2%	36.7%	41.3%
New part-time students	1,868	3,881	9,665	12,763	8,057	15,057	15,718	17,254
Total	15,272	24,690	33,944	37,033	35,031	39,207	48,206	52,796

*Source: Ministry of Education.*

A significant increase of newly accepted students might be a positive development but since the total amount of allocated resources has increased very slowly, in fact just marginally “faster” than inflation, the outcome is sub-optimal – the grant per student has decreased significantly over the evaluated period. The outcomes were straightforward – overcrowded facilities, declining level of entry examinations (or their full abolishment), and increasingly overworked staffs.

The higher education law also envisaged the system of public grants to be complemented by a significant increase of own revenues. As indicates Table 6.7, this has scarcely happened. The Table 6.7 does not include unofficial sources, derived mainly from semi-legal fees paid by their part-time students through many different channels.

**Table 6.7:** Public and Own Resources of Universities/Higher schools (thousands Sk)

	2000	2001	2002	2003	2004	2005
Public grants	5,845,870	6,472,289	6,816,340	8,631,711	9,831,900	10,349,388
Own resources	532,884	454,592	1,207,204	1,397,170	1,440,983	2,191,299
Total	6,378,754	6,926,881	8,023,544	10,028,881	11,272,883	12,540,687

*Source: Ministry of Education.*

Politicians and managers of the system have come to appreciate some of these problems, and tried to cope with them. The main change was splitting the financing formula into two parts, i.e. providing the main public grant on

the basis of two criteria – according to the number of students (approx. 60%) and according to the research results (40%). These changes (together with the changes in accreditation process) delivered certain positives, but also new pervasive effects – especially inflation of low quality publication volumes (or focus on Web of Science conference proceedings today). However, all the changes did not change the problem of over-supply: today many universities accept all candidates to fill in the existing capacities which present today about 130% of the maximum potential demands due to the decline in youth population.

### **6.3.3. Health Care Delivery: Competitive Health Insurance Financing and Plurality of Ownership Forms**

The objective of the pre-1989 health care system in Czechoslovakia had been to provide a comprehensive system of health care for all members of society. Under the old system both services and medicines were free for the patients. Despite of limited resources (about 5% of GDP), everyone was able to get necessary health care, when necessary, at a relatively good medical standard. Most considerations of equity were achieved although special medical institutions provided higher quality care for high-ranking officials.

The processes of reforming the Slovak health care system started immediately after the Velvet Revolution in 1989. They introduced important changes into the system – especially privatization, and a shift in financing health care from general taxation to social health insurance. On the other hand, the state did not opt out from the principle of universality of access – according to the Slovak Constitution, based on an insurance system, citizens have the right to free medical care according to the provisions of complementary law (Law on Health Care).

From the point of health finance, Slovakia switched to the so-called “Bismarck” system of social health insurance to replace the old general taxation system of financing health care. However, together with the Czech Republic, it decided to introduce a competitive/pluralistic social health insurance (no other “post-soviet” country decided for such radical pro-market switch). The main laws on health insurance were passed in 1994 which created the base for establishing “competing” health insurance companies (two of them public). Most of these have disappeared since then from the ‘market’. In 2002, five health insurance companies existed but since 2010

only two private and one public remained (for more see Nemeč, 2013).

Changes in the health insurance system were supported by the typical arguments of plurality, independence, and competition. However, because the health insurance premiums were centrally defined, and the main package of services had to be delivered by all insurance companies for the price that was regulated by the Ministry of Finance, some level of plurality and competition was visible only during the initial phase of insurance system (for more see Medved, Nemeč & Vitek, 2005).

The introduction of a pluralistic health insurance system is frequently considered an imperfect state decision during the health care transformation process in Slovakia. Arguments for a plurality of insurance providers, their independence from the government, and competition between them have been strongly questioned by several authors. Because the evidence for these doubts comes from the advanced market systems, it seems likely that their potential to improve health care in transitional countries may be even more limited. Simple data indicate that this reform idea did not achieve its objective. Many resources were withdrawn from the system when several private insurance companies collapsed, and better quality was not achieved.

Privatization or denationalization of health service production began in the mid-1990s, mainly in outpatient care and pharmacies, and is almost completed (for more see Nemeč & Lawson, 2005). In 1995, the state system accounted for 58% of expenditures in primary care, in 1996, it was only 8%, and by 2001, it was 5%. For the pharmacies the trend was similar: the proportion in the state sector decreased from 97% in 1995 to 5% in 1996, and 3% in 2001. Privatization of specialized ambulatory care was slower but, by 2001, the state sector accounted only for 26% of facilities (today only ambulances in public hospitals remain public).

The process of hospital privatization began during the second term of the Dzurinda government. In 2002, the management of hospitals was decentralized, and some hospitals were given self-governing status. By 2003, all regional hospitals had been transferred to regional self-governments or converted into non-profit bodies. The Ministry remained responsible for university hospitals. Although the latter were expected to be transformed into shareholder companies, such a transformation did not occur during the Dzurinda government period, and the Fico government terminated the



idea. Table 6.8 displays the evolved structure of hospitals in Slovakia, and documents that the idea of plurality of ownerships forms (except for faculty hospitals) was achieved (the situation is more or less similar also in 2016).

**Table 6.8:** Hospital Ownership by Region (2009)

Ownership	Western Slovakia			Central Slovakia		Eastern Slovakia		Bratislava	Total
	TT	TN	NR	BB	ZA	PO	KE		
State – Ministry of Health establishments	4	3	6	13	6	8	11	10	61
State – other state bodies	0	1	0	0	1	2	0	2	6
Public – regional or local self-governments	4	4	2	2	5	3	1	1	22
Other (profit and non-profit companies)	4	8	6	14	5	21	11	14	83
Total	12	16	14	29	17	34	23	27	172

*Abbreviations of regions: TT – Trnava, TN – Trencin, NR – Nitra, BB – Banská Bystrica, ZA – Zilina, PO – Presov, KE – Kosice; Source: Ministry of Health.*

From the point of patients' direct financial participation in covering health care expenditures, Slovakia belongs to the group of (developed) countries with moderate to high patients' participation – together with most new EU member states. Most all co-payments were introduced by the second Dzurinda government in 2004, and despite to the fact that most of them were abolished, this reversal did not impact the trend towards an increased private financial participation, which shifted to the area of drug expenditures. To what extend a relatively high level of private payments limits the universality of access is bit unclear – there is no effective research on this topic in Slovakia.

### 6.3.4 .Agencification

In the early phase of transformation, the agencification was connected only with financing of health care, pensions, and unemployment benefits. In 1993, three public agencies were created – *Vseobecna zdravotna poistovna* and *Poisťovna MV SR* for health care insurance, and *Socialna poistovna* for unemployment and pension benefits.

The main wave of agencification is connected to the reform measures of the liberal governments of 1998–2006 period, and to the EU accession process (for more see Nemeč, Mikusová Mericková & Vozarová, 2011). Both factors served as major catalysts of changes contributing to the creation of a relatively comprehensive set of agencies, many of which enjoyed a very high degree of autonomy from the executive government. Without much (or almost no) discussion about the normative and practical aspects of privatization and agencification ideas (e.g. the split between policy and administration; more efficiency through specialization and expertise; depolititization) massive reorganization of the public sector occurred during the two Dzurinda Cabinets (between 1998 and 2006). Table 6.9 shows sectoral examples of the created agencies, and Table 6.10 main regulatory agencies.

**Table 6.9:** List of Service Delivering Agencies (per Selected Sectors) in Slovakia

Sector	Legal Status of Providers	Evolutions of Forms of Ownership
Telecommunications	Slovak Telekom, shareholder company, owned by Deutsche Telekom AG	Privatization of state body Slovenske telekomunikacie in 1999–2000
Postal services	Slovak Post, shareholders company, owned by the state	Converted from state enterprise in 2004
Production, transport and marketing of electricity	Many licensed private companies. Largest body is Slovenske elektrarne, shareholders company	Deregulated market, Slovenske elektrarne owned by the state (34%) and ENEL SPA (66%)
Gas transport and distribution	SPP distribucia – for delivery of gas to consumers and Eurostream – for international gas transport – both 100% daughter company of SPP	Unbundling from 1. 6. 2006
Marketing of gas	SPP – shareholders company, 51% state-owned, and 49% owned by Slovak Gas Holding B.V. – consortium of E.ON-RuhrGas and Gaz de France	Privatization in 2002
Railway transports of passengers	Railways of the Slovak Republic	State enterprise, established on 1. 1. 1993

Freight rail transport	Cargo Slovakia	From 1. 1. 2005 as the separate state shareholders company, before part of Slovak railways
Regional and local transport of passengers	<i>Railways of the Slovak Republic, State-owned railway infrastructure company road infrastructure provided by licensed private companies</i>	Deregulation of road transport from the mid-2000s, regulated by sub-national governments
Air transport	Private companies	After the split of Czechoslovakia, the federal airlines CSA became Czech body only. A few new private companies were established later. Attempts to create a national airline failed.
Inland water transport	Private companies	Privatization of formed state body
Water and waste water	Regional mixed or private companies	Deregulation since 2006
Heating	All types	Privatization in 1990
Broadcasting	State-owned nationwide public broadcasting organization with three channels, private TV broadcasters, regional TV broadcasters	Licenses for private TV stations issued

Source: Nemeč, Mikusová Mericková & Vozarova, 2011.

The endogenous motives for agencification (there was no major political or public opposition to changes) were strengthened by exogenous pressure on policy makers – especially the need to comply with “the Acquis Communautaire” as the basic conditions for joining the EU.

In 2006, the left wing government under the Prime Minister Fico was elected by the voters who were very dissatisfied with the perceived radicalism of previous reforms. This new government was not able but also not willing to revert previous agencification decisions (also because of the EU membership obligations) – compared to some other countries Slovakia did not even react to the fiscal constraints caused by the economic and financial crisis with cutting its staff or merging agencies. The same is valid for later Fico’s governments (in power again from 2012 and re-elected in 2016).

**Table 6.10:** Main Regulatory Agencies in Slovakia

Sector	Market structure	Regulation modes
Telecommunications	Liberalized	Independent regulator: <i>Telekomunikacny urad SR (www.teleoff.gov.sk)</i>
Postal services	In the process of liberalization	Independent regulator: <i>Postovy regulacny urad (www.posturad.sk)</i>
Production of electricity	Liberalized	Independent regulator: <i>Urad pre regulaciu sietovych odvetvi (www.urso.sk)</i>
Electric networks (transport and distribution)	Regional monopolies	Independent regulator: <i>Urad pre regulaciu sietovych odvetvi (www.urso.sk)</i>
Marketing of electricity	Regional monopolies	Independent regulator: <i>Urad pre regulaciu sietovych odvetvi (www.urso.sk)</i>
Gas transport-distribution	Monopoly	Independent regulator: <i>Urad pre regulaciu sietovych odvetvi (www.urso.sk)</i>
Marketing of gas	Monopoly	Independent regulator: <i>Urad pre regulaciu sietovych odvetvi (www.urso.sk)</i>
Railway transports of passengers	Monopoly	Semi-independent regulator: <i>Urad pre reguláciu železničnej dopravy (www.urzd.sk)</i>
Freight rail transport	Monopoly	Semi-independent regulator: <i>Urad pre reguláciu železničnej dopravy (www.urzd.sk)</i>
Regional and local transport of passengers	Regional and local licences, normally given to one supplier	Semi-independent regulator: <i>Urad pre reguláciu železničnej dopravy (www.urzd.sk)</i>
Air transport	Liberalized	Semi-independent regulator: <i>Letecky urad SR (www.caa.sk)</i>
Inland water transport	Liberalized	Semi-independent regulator: <i>Statna plavebna sprava (www.sps.sk)</i>
Hospital health services	Mix of all types of companies and NGOs	Independent regulatory office: <i>Urad pre dohľad nad zdravotníckou starostlivosťou (www.udzs.sk)</i> may represent agency (2).
Ambulatory health services	Mainly private	Independent regulatory office: <i>Urad pre dohľad nad zdravotníckou starostlivosťou (www.udzs.sk)</i>
Higher education	Dominated by state/public schools, few private high schools exist	Semi-independent <i>Akreditacna komisia (www.akredkom.sk)</i>
Financial services	Competitive market	Independent regulator: <i>Narodna banka SR (www.nbs.sk)</i> may represent agency (2).
Broadcasting	Competitive market	Independent regulator: <i>Rada pre vysielanie a retransmisiiu (www.rada-rtv.sk)</i>

Source: Nemeč, Mikusová Mericková & Vožarova, 2011.

De-agencification is not the issue today; however, the level of independence of agencies from the central structures and politicians visibly decreased. As Beblavy (2002) states, depolitization in general and depolitization of agencies was never the real agenda of any Slovak government. However, the opposite might be true – just after creating agencies political parties started to understand the benefits emanating from controlling agencies. As a result, the political fight for the “allocation” of agencies – either between coalition and opposition parties, or within political parties in power – is more and more visible.

#### **6.4. Civil Service Reform**

Slovakia did not decide to pass the Civil Service Law in the earlier phases of transformation. Only the pressure connected with the final phase of EU accession process forced the political elites of the country to accept the fact that civil service shall be regulated by special law, providing a guarantee for the existence of professional and politically independent civil service.

The Act No. 312/2001 Coll. on Civil Service stipulated for the first time the legal relations in the Slovak civil service performance. This Act provided the legal framework for the civil service, and was aimed to establish professional, impartial, politically neutral, efficient, and flexible civil service. The Act made a clear distinction between political (minister, state secretary) and apolitical posts (head of office, directors general of the sections, directors of departments, and other civil servants at the ministries). The Civil Service Office was set up and was responsible for the implementation of the Act (for more see Staronova, Stanova & Sicaková-Beblava, 2014) – the Office sought to coordinate national service with two instruments: systemization and central register of civil servants but it was not very successful.

The simultaneously accepted Act No. 313/2001 Coll. on Public Service regulated the public service matters (teachers, part of staff of territorial self-government, and other public sector professional employees, without status of a civil servant).

In addition, specialized laws, which established the civil service of military forces, policemen, customs officers and fire-brigades, were adopted during this period.

By doing so, the legislative framework regulating the status of civil ser-

vants and other public sector employees has been created. However, soon after the EU accession in 2004, major regressive changes happened (Mayer-Sahling, 2009). The Civil Service Office that was politically independent, and its chair was not very popular amongst the whole spectrum of political parties (Staronova, Stanova & Sicakova-Beblava, 2014) operated only between 2002 and 2006, when it was repealed by the Parliament. Except for personal reasons, other factors determining the abolishment of the Civil Service Office were lack of law harmonization and lack of clarity of the law on the civil service which influenced the uncertainty concerning the role of the Civil Service Office as well as disseverment of individual service offices which hardly cooperated with that time newly established office.

According to Meyer-Sahling (2009), Slovakia (together with Poland and the Czech Republic) represents a group of “destructive reform reversal” countries. Not only the Civil Service Office was abolished but most of main civil service principles are not well respected by the legislation, and especially the practice in Slovakia. Open competition for civil service posts is formally established but, in reality, patronage is the main principle for selection of new civil servants, especially in higher posts (Staronova, Stanova & Sicakova-Beblava, 2014, describe this phenomena in detail). Specific way to by-pass a real open competition are given by selection criteria – if examinations happen, they have, in majority cases, only oral form, thus allowing any kind of manipulation (Table 6.11 shows changes of the civil service selection process – and the fact that competition for permanent civil service post is not compulsory since 2009).

**Table 6.11:** Civil Service Positions and the Selection Process thereof

	<b>Preparatory civil service (1. 4. 2002 – 31. 3. 2004)</b>	<b>Permanent civil service (1. 4. 2002 – today)</b>	<b>Temporary civil service (1. 1. 2004 – today)</b>	<b>Nominated civil service positions (1. 1. 2004 – 1. 11. 2009)</b>
Qualification examination (1. 4. 2002 – 1. 6. 2006)	After passing this examination, the status of permanent civil servant was achieved.	x	x	x
Nomination examination (1. 1. 2004 – 1. 11. 2009)	x	x	x	y
Standard open competition (1. 4. 2002 – today)	y	Optional	Optional	x
“Group” open competition (1. 1. 2004 – 1. 11. 2009)	x	y (but not for the highest positions)	x	x
Direct selection (1. 11. 2009 – today)	x	Optional	x	x

*Source: adapted from Staroňová – Láštík, 2011.*

The civil service in Slovakia is also far from the ideal of political neutrality – the legislation and the practice give virtually no guarantees to the senior civil service appointees, making these positions susceptible to political appointments and political pressure. Managers – from the top state secretary/deputy minister down to the head of unit/division – can be ‘relieved of their duties’ at any time and without any reason (Meyer-Sahling, 2009: 40).

Another dimension involves performance evaluation and performance pay. The basic salary is fixed but the allocation of any non-predetermined premiums is fully arbitrarily, and varies in structure and number. For the majority of the authorities performance appraisal (if exists) is not at all related to remuneration, i.e. the link to a salary is missing, although the performance salary component is far from being marginal. Because Heads of service offices and Directors-general are occasionally paid the salaries (all premiums included) that are as high as the salaries of top managers in the private sector, such situation is alarming.

## **6.5. Improving Administrative Services and Procedures, E-Government**

As indicated above, most “reform” changes were of structural character, or promoting decentralization. None from all existing Slovak governments really directly addressed the need to deliver reliable, predictable, transparent, and efficient administrative services to the citizens and the private sector, and/or minimize “red tape”, and simplify administrative processes. As of today, administrative courts and/or tribunals are still not established; the same is valid for necessary systemic complaint mechanisms (except for some very recent steps within the ESO reform).

### **6.5.1. Improving Efficiency and Quality of Administrative Services**

For this topic we provide one short case study to document the situation (for more see Nemec, Medved & Sumpikova, 2005). With the support of Phare public administration reform program a comprehensive experiment with focus to improve the quality and effectiveness of performance of the deconcentrated state administration was introduced at the level of district and regional offices of state administration in Slovakia. The preparation of the experiment started in 1998, and the first year of operation was in 2000.

The aim of this experiment was to try to assess and measure performance of offices in the following four dimensions:

1. Professional quality of performance (the quality of administrative actions),
2. Client satisfaction,
3. Employee satisfaction,
4. Efficiency of performance – delivery of products.

Already the starting phase of this experiment was problematic – because of many implementation problems, the experiment was realized in limited scale (contents), and on a very small sample of state administration bodies (size).

During the period of 2000–2002, three of its four parts started to operate. Client satisfaction was measured by using a comprehensive questionnaire, filled in by the citizens coming to the office for any kind of administrative action. 23 quality target questions tried to obtain the data on the most impor-



tant dimensions of service, including performance of personnel, premises, and process (all aspects of service design). Employee satisfaction was also measured by the questionnaire covering 39 questions about important factors influencing the employee satisfaction. Issues like working conditions and environment, career planning and development, working relations, workload and rewards represented the most important parts of the questionnaire.

The measurement of the efficiency of performance of public administration activities was based on data obtained from cost-center based management and accounting. The cost-center approach was introduced as an experiment in one regional office of the state administration as a part of the Phare project, focusing on public administration reform since 1998. Later, the Ministry of Interior decided to use this approach as a compulsory method in all district and regional offices of the state administration. The data from cost-center based computerized system (using software IBEU) provided full information about the direct and indirect costs of the respective department. These data were processed further to obtain data per product as the pre-condition for future full-cost accounting.

Despite of the potential of this approach, the project was suspended, especially because of a lot of resistance from the offices. Regional and district offices complained that it was too complicated to obtain data, or they were not willing to provide it, being afraid of the consequences. Some of the complaints were realistic – for example that the calculation of costs per product was only partly based on the existing software IBEU but needed additional manual interventions. There were no interconnected information management systems within the offices of the state administration. Nor there were national information systems collecting the data automatically. The interface between IBEU and the central program to process the data at the level of the Ministry did not work well. In this situation the running of the system caused additional workload for all actors, thus limiting the success of the experiment. The group processing data at the Ministry was too small to be able to prepare comprehensive material summarizing the data obtained, and to draw the necessary conclusions. Cost-centers increased the workload but also achieved better transparency of performance data – something not appreciated by most offices.

Positive elements from this experiment were not used in later stages of “reforming” the Slovak public sector. It seems that all involved stakeholders

do not want too transparent information about performance of public administration bodies – including citizens who do not demand it (the problem of non-reliability of existing cost data in Slovak public administration system is well documented by our studies on contracting and outsourcing: unit costs of in-house versus external production are not compared because they are not available – see for example Merickova et al., 2010).

### 6.5.2. Administrative Procedures: “Red Tape”

Excessive regulation and rigid conformity to formal rules are the typical features of the Slovak public administration system. We can document this fact in many cases. Two core purposes might lie behind this situation – German legal tradition and politicization. In the Slovak conditions, the typical reaction of top politicians to any problem or scandal in the public (and also private) sector is changing the existing laws, or preparing a new legislation. In such conditions, for example Public Procurement Law is amended two or three times over some years, adding and re-adding new paragraphs and requirements (the first law was about 30 pages long, the current law is more than 200 pages long and not executable because of internal controversies).

Regulatory impact assessment system was formally introduced in Slovakia as a part of accession and post-accession process, but as Staronova (2010: 124) states, it is just formal and does not have any impact on decreasing “red tape”: “The lack of a single unit in charge of RIA quality assurance in Slovakia de facto weakens the whole system, and makes the use of RIA only a symbolic exercise”.

We briefly introduce one interesting study documenting the issue. Cizmarik (2013) tried to assess the compliance costs of taxation in Slovakia (cost that have to be paid by the tax payers for fulfilling legal tax obligations). He used statistically significant sample, and his results are really negative as shown in Table 6.12.

Because the findings, especially the estimates of compliance costs for income taxation of physical persons, were very negative, he recalculated the results for the following possible biases – total tax revenues from income tax, real total number of legal persons, replacing average with median data, different values of the coefficient “A”, and different monetary values of time as shown in Table 6.13.

**Table 6.12:** Estimated Costs of Taxation in Slovakia in 2011: Income Taxation

Subject: Legal form	Average CC (EUR)	Total number of tax subjects	Total CC (EUR)	Total tax revenues (EUR)	Relative CC (%)	CC to GDP (%)
Self-employed	861	481,996	414,871,309	x	x	x
Other physical persons	770	75,754	58,354,569	x	x	x
Physical persons in total			473,225,878	56,402,000	839.02%	0.69%
Limited companies	4,067	181,192	736,921,800	X	x	x
Other companies	3,186	12,191	38,841,609	X	x	x
Legal persons in total			775,763,409	1,645,905,000	47.13%	1.12%
Total			1,248,989,287	1,702,307,000	73.37%	1.81%

Source: Cizmarik, 2013.

**Table 6.13:** Alternative Recalculations

Alternative	CC to tax revenues total	CC to tax revenues physical persons	CC to tax revenues legal persons
Original results	73.37%	839.02%	47.13%
Alternative „A“	53.11%	242.29%	35.98%
Alternative „B“	62.36%	713.17%	40.06%
Alternative „C“	40.12%	637.04%	19.67%
Alternative „D“	61.36%	734.61%	38.29%
Alternative „E“	62.99%	599.71%	44.59%
Alternative „A+B+C“	24.69%	156.37%	12.76%

Source: Cizmarik, 2013.

To summaries the results – tax payers and physical persons have to spend minimum 1,5 EUR to pay 1 EUR taxes to the state, probably much more. Even with the most cautious assumptions, the compliance costs of taxation in Slovakia are higher compared to those in most other countries.

The issue of rigid conformity to the rules is well visible on the example of public procurement or within the system of public sector control. Nemeč, Orviska and Lawson (forthcoming) mapped the impact of the Supreme Audit Office on innovations in the public sector and the level of efficiency of its audit. The theory anticipates that accountability institutions, such as the

SAO, may create feedback loops supporting public innovations. However, their detailed checks on the concrete situation in the Slovak Republic confidently conclude that in Slovakia such a feedback loop barely functions. One of the core purposes for this situation is the way how controls function – most controls are compliance controls, and the main feature of controlling is “fear”.

### 6.5.3 .Transparency

As regards transparency, the most important step was introducing of free access to information legal package (since 2001), progressively increasing access of citizens to any public data. Two core laws defining this field are the Law on Free Access to Information and the Law on Public Contracts.

The Law on Free Access to Information is to large extend fully comparable (or even more progressive) with the situation in most developed countries – formally any physical person can ask for all existing non-secret information – and public bodies must provide information about the access point (channels). Implementation gaps exist but are not too much limiting the functionality of this law.

The Law on Public Contracts requires that all contracts signed by the public bodies (except for few secret exemptions and above fixed financial limit) must be stored in the central registry – and are valid only after they are stored and displayed. As a result, any interested party has a full access to all information on governmental purchasing but also many other types of public expenditures (like grants to non-profit sector bodies).

Transparency is formally very well promoted, especially at the self-government level. For example, the city of Martin (Central Slovakia) received several awards for its project “Transparent City” from important international bodies – especially the United Nations Public Service Award in 2011 in category: Preventing and Combating Corruption in the Public Service. However, as the existing studies document, a really high level of transparency in Slovakia does not prevent corruption. For example, Grega (2013) analyzed public procurement in the above mentioned city of Martin. Thanks to transparency, he did not have any problems to obtain data documenting that many procurements are manipulated.

#### 6.5.4. Accessibility and E-Government

Except for very marginal improvements implemented especially at the local level (most progressive municipalities started to create client centers at the beginning of this century), not much has been done for a better accessibility of administrative services prior to the ESO reform.

Thanks to the available financing from the EU funds, the ESO reform includes some visible improvements, especially the fact that one-stop shops were established step by step at the deconcentrated state administration level, to ensure contact of the citizens with the state administrative functions. One-stop shops operate within the organizational structure of district offices, and are expected to provide services like Trade Licences, Road Transport administration, Environment, Registration of Vehicles, Commercial Register, Offences, Forest and Land Office, Labor, Social Affairs and Family in one place. The core limit for full operation of one-stop shops is the existence of thousands different administrative registers that are not interlinked – and probably cannot be interlinked in short or even medium time perspective. The principle that a piece of information is provided to the state only once cannot be respected in such environment, thus increasing administrative burdens to citizen and business.

##### **E-Government**

Electronic public administration, i.e. e-Government, became the visible issue less than ten years ago. The Strategy for the Public Administration Informatization 2007–2013 included the task to provide selected agendas in electronic way – providing e-services to the citizens and the private sector by using public administration information systems. However, also because of lack of resources and technical problems with e-signature, communication, and transaction functions of e-government, it did not start to function on expected scale.

The problem of limited resources was addressed by the creation of operational program Public Administration Electronization as a part of recently finished EU funds programming period. The expectation was that all main state services will be electronized (especially job search, filing of income tax return, motor vehicle registration, or social security). This program allocated to various projects worth about one billion of euros in total, and its formal goals were specially (*www.informatizacia.sk*) the increase of satisfaction of citizens, businesses and other entities with public administration by reducing

the administrative burden on citizens in contact with the public authorities, and to simplify citizens' opportunities to participate in public affairs; introducing of electronic devices in public administration processes through the creation of additional electronic registers for administrative operations and their connection to existing registers; ensuring their usability for legal acts, effective and efficient public administration through a functional system of e-Government; increasing of public administration competence by increasing the computer literacy of public servants.

The 2013 survey carried out for the Ministry of Finance by a company GfK Market Research Institute Ltd. ([www.informatizacia.sk](http://www.informatizacia.sk)) regarding the citizen satisfaction with e-Government services reveals some very interesting facts regarding the situation and possible achievements.

The results confirmed the computer literacy of the population as well as the possibility of access to the Internet – up to 84% of surveyed residents used the Internet. The users were not only the younger age groups or groups of people with higher education but 57% of the elderly population aged 60 to 67 years used the Internet and up to 60% of the population with primary education could use the Internet. Use of the Internet by the citizens of the Slovak Republic is growing every year – since 2010 it rose from 60% to 72%. These facts suggest that Slovak citizens are prepared for e-Government, i.e. they expect growth in the volume of services provided electronically.

In reality, however, electronic contact of citizens with public authorities in its simplest form, such as obtaining information by the citizens from public authorities, is still not intensive and also not improving (in 2011, 69% of citizens obtained information from the public authorities, and 54% used the forms downloaded from the websites of public authorities, while in 2013, only 53% of citizens obtained the information electronically, and only 40% of citizens downloaded the official forms). The dominant form of citizens contact with the public authorities is still a personal visit (75% of the citizens).

On average, 48% of citizens considered information on electronic public services insufficient. Only 18% of citizens were aware of electronic public services directly from their providers – most citizens received information from the media, friends and relatives, and these data are incomplete (70% of citizens do not understand the principle of public e-service completely, regardless of age, education, or the size of the municipality). 54% of Slovak citizens never

used any form of electronic contact with the public authorities. For citizens, who did use an electronic contact with the authorities, only 20% used a full electronic public service, the rest only looked up information from the website or downloaded official forms but they received the service in person).

Citizens do not evaluate e-Government services well – only 10% of citizens perceived that electronic public services fully met their needs. Most of them claimed that the only benefit of e-Government is time saving but issues like increased efficiency, service quality, and increased transparency were not perceived. 23% of those who wanted to use public e-services had to visit the office in the end.

### 6.5.5. Lack of Accountability and Responsibility

Accountability and responsibility represent important problem in the Slovak public administration system – this fact is revealed by many existing studies. As Vesely (2013) states, the fact that the Slovak (and some other Slavic languages) is not able to translate these two terms properly indicates a lot.

Because accountability and responsibility is not required by the citizen, and the tolerance to corruption is really high (Orviska & Hudson, 2003). In Slovakia nothing happens to a Minister, who publicly announces (*www.pravda.sk*): “Yes, our office did not follow public procurement rules. Maybe we will pay the fine as set by the Public Procurement Office; however, this is just the transfer from one state pocket to another one. But the most important is that we have necessary cars”. Nothing happens also to a hospital director, who responds in a discussion on public procurement problems in his institution as follows: “The life of the patient is much more important than the Public Procurement Law. Our only concern is to provide the patient with maximum care. The patient does not care about the procurement of medications; he just wants his/her drug.” (*www.stv.sk*).

## 6.6. Conclusion

The text of this chapter first shows the consequence of public administration changes in Slovakia after the Velvet Revolution in 1989. Its main goal is to assess all these changes from more global analytical perspective according to main selected comparative areas analyzed in this book.

The facts indicate that, except for first phase of reforms when all democratic structures were created, frequent later changes deliver moderate impacts, if any. The core task for almost all governments was to change the administrative structures – this happened in zigzag way by switching from specialized to general administration and back (generating massive costs but with almost no benefits). On the other hand, some necessary steps were not recognized, or even reverted – the most visible example is Civil Service situation.

Important positive achievements and results, however, do exist. Slovak self-government situation is one of the closest in Europe to the principles of the European Charter of Local Self-Government – except for too large fragmentation that is not well addressed on top-down line. The transparency and right for information principles are almost perfectly respected – legally but also in practical life. Recent ESO reform has ambitions to improve the quality of administrative services and processes for citizens and businesses – some important changes already happened (one-stop shops and e-Government services).

We argue that the core purpose for the limited capacity of all Slovak governments is over-politicization of the public life in the country – public administration is expected to serve the politicians, and the task for every new minister is to “reform” it. In such environment, in many cases, “ill reforms are badly implemented”, and the need to change this – to switch from politic to policy is well stressed by the Strategy of the Development of the Slovak Republic (2010) – just needs to be implemented.



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## 7. Hungarian Public Administration: Last Thirty Years, Waves in the Story

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### 7.1. Introduction – Defining Models

In this chapter, we<sup>16</sup> provide an overview of the Hungarian PARs, and try to analyze and assist understanding of these changes in the light of various models of PA. The chapter is divided into four main parts. In the first part, we attempt to define the type of approaches to PA, including the bureaucratic and the socialist model as well as the three identified reform-models. In the second part, we review major reform waves separately in various segments of PA: (a) structure (central and territorial organizations), (b) functioning (policy making, public service provision and administrative procedures), and (c) civil service. In the third part, we provide an overview of the Hungarian scholarly literature regarding PAR. Finally, we attempt to present a summary by interpreting the findings in the light of PAR models and answer to the questions raised by the editors of the book.

Hereby, we attempt to identify major reform movements in the Hungarian public administration and to categorize them into a certain type of reform ideology, or reform type/style (hereinafter: reform-model or model).

Regarding the potential models reflecting on the international literature, most importantly relying on Pollitt & Bouckaert (2004, 2011) and, to some degree, Ashworth et al. (2013), and specifically Hajnal & Rosta (2016), we identify three major streams of reform-models, namely New Public Management (NPM), Neo-Weberian State (NWS) and New Public Governance (NPG) according to Pollitt & Bouckaert (2004).<sup>17</sup> Besides, these three models may have do-

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16 The final version of this chapter is a result of a joint effort of the authors. Originally, the responsibilities for the sub-chapters were shared as follows: György Gajduschek the models, central government, decision-making, administrative procedures and civil service; Tamás M. Horváth local government and public service delivery; Károly Jugovits scholarly debates.

17 In the new edition of their analysis (Pollitt & Bouckaert, 2011) the authors introduced a new term: digital governance instead of NPG that refers to the impact of ICT on PA. Whereas this impact is crucial and largely changes the functioning of the public sector, especially administration/management, we believe that this is a different dimension of the changes.

minated the mainstream international professional discussion on PA reforms in the past decades.<sup>18</sup> Our chapter will discuss the impact of these three imported models but two other ‘models’ have also relevance in this study. Firstly, the communist-socialist model (we use the term ‘socialist’ as the Hungarian system could surely not be called ‘communist’), and secondly, the Weberian-bureaucratic model, as several Hungarian and foreign authors emphasize, it could have been better if the PA of socialist countries, at the first stage of transformation, had attempted setting up a full-fledged bureaucratic system (Hajnal & Rosta, 2016). The three reform-models are usually contrasted with the bureaucratic system, in the West, whereas these three as well as bureaucracy may have appeared as an option to overcome the socialist past.

### 7.1.1. Socialist System

Unfortunately, we could not identify one major volume that would provide a comprehensive systematic description of the communist-socialist system, its major mechanisms, and especially the role of government and PA within that. Nevertheless, several such elements are well known and can easily be enlisted (e.g. Kornai, 1986; Janos, 1996; Goetz & Wollman, 2001; Dimitrov, Goetz & Wollmann, 2006; Meyer-Sahling, 2009b). In this perfectly totalitarian regime it is the government led by the communist party, i.e. led from the center (of the country and ultimately from Moscow), by one despot that controls everything, even the purest private (family) life of the citizens. No market functioning, no civic initiatives are accepted; on the contrary, even cruelly suppressed. In other words, it is an extremely etatist and centralized system. The state institutions are organized based on the officially advocated principle of “unity (as opposed to division) of power” serving also the purpose of central direction as opposed to checks and balances. All these had a major impact on the way of government functioning that has perhaps been less investigated and analyzed. Below we list those features that we believe are the most relevant for our study, discussed in a descending order in the literature. Etatism and centralization naturally have its impact on the governance. Another crucial issue is the strict political control exercised by the Communist Party. This generates some crucial characteristics that may be

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18 In fact the latter two (NWS and NPG) are also discussed as „post-NPM”, or as Pollitt and Bouckaert (2004) present them, an alternative adoption and adaptation of NPM in various parts of Europe. For our purposes this theoretically highly significant question is of minor relevance.

behind some features of present government attributes. The most important such elements may be:

1. The functions of policy formation and policy implementation were largely divided between the party and the state apparatus. Major policy decisions were prepared and surely adopted in the offices of the Central Committee of the Socialist Party.<sup>19</sup> Ministries may have been responsible for the formulation of related laws and other activities, whereas local units carried out the work of everyday operative implementation.
2. Naturally, loyalty to the party, its ideology and leaders was a must that was enforced by the so-called nomenclature system that provided the prerogative to the party unit in the given field/level to evaluate and veto candidates to any relevant civil service positions. Furthermore, a party resolution set up quasi-official rules on the selection for civil service position that named political loyalty as the first criterion, followed by professional qualities. Though, from the late 1960's professionalism became more and loyalty less emphasized, this rule was valid as long as the regime existed (Gajduschek, 2007b).
3. The administration was a kind of conveyor belt between central political decision-making and the society at large. Consequently, the key function and responsibility of the administration was to control the society. This exacerbated the suppressive, authoritative element of PA (or state administration as it was called at the time) over a service approach.
4. Most of the activities of the administration were based on the laws (though party resolutions hold a similar or higher status to that of laws). Laws, in this regard, however, hold a different position than in a system of rule of law, where the laws provide guarantees to the citizens against arbitrariness, unfair, and suppressive actions of the government. Laws, similarly to that of the Prussian *Polizeistaat*, are generalized orders from the center of the hierarchy to the lower levels. In other words, rules are to assure organizational efficiency. Uniformity is necessary to ensure that the will of the center is carried out precisely at lower levels but exceptions may also be created if the will of the center requires so.

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19 According to official statistics of the time, the size of full-time party apparatus was 5793 (Hell, 2010). The size of the civil service (officials working in the offices of central and local government) was about 50,000. Additional units of the party organizations, such as the Social Sciences Institute, a kind of Think Tank of the Central Committee, are not included into the above-mentioned numbers.

5. State administration could rely on various instruments and methods to enforce central will against the society and its individuals. Frequently, this was the application of laws, issuing of permits, adjudicating individual cases, monitoring activities, and sanctioning in case of infringement of laws by the citizens or other entities – a type of activity dominating the PA nowadays as well. Nevertheless, during the socialist period, the administration, and especially its managers, had much more methods at hand to enforce the will of the centrum (or their own personal interests for that matter). Most importantly:
  - a. As the economy was dominated by the state-owned companies, and so-called civil organizations (including the unions) were also run by the government, the top managers of these organizations were – formally or informally – controlled via HR methods of appointment and lay-off, setting up salaries and other ways of remuneration, etc., by the government.
  - b. Laws could be used selectively; one may have been sanctioned for something thousands of others have done without retribution (Kulcsár, 2001).

In brief, the orders of the local party and state administration were carried out without resistance even if the laws did not support them as informal institutions offered the incentives<sup>20</sup> strong enough to regulate non-state actors behavior in the direction expected from the higher positions in the hierarchy. Obedience in this system was easily assured through semi-informal sanctions and incentives.

With the transition most of these well-functioning, widely and routinely used (though highly suppressive and arbitrary) governing techniques became obsolete. A perfectly different way of administrative functioning was necessary, techniques that were new needed to be learnt and put into practice, on individual and organizational level, and a perfectly new way of governance (relying on much more limited authority) was to be elaborated. This is a crucial issue in transition that has hardly been analyzed in the literature.

Hungary, was specific, to some degree, for its so-called Goulash Communism that allowed somewhat more freedom in the private sphere, and

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20 This fact may explain why the number of civil servants doubled after the transition, from below 50,000 in 1989 to over a 100,000 in 1994 (the first time the official data are again available).



even some market activities were allowed, a relatively large smallholders sector existed, whereas the suppression of civil society was seemingly milder than in most CEE countries.

### **A note on pre- and post-communism – the longer historical perspective**

Even though communism was ‘imported’ to the CEE region, it fits, in a certain way, to a longer-term history of – at least some of – these countries; it fits into the historical Eastern (Byzantine) model described by Szűcs (1983). Moreover, it may represent even an ultimate accomplishment of that model imported to Central Europe from the East (i.e. Soviet Russia). For instance, government control over every segment of the society, and authoritarian style of governing, both in political decision-making and administrative culture, are such historically overarching features (Kulcsár, 1982, 2001). Other publications that address the transition from a wider perspective (such as Elster, Offe & Preuss, 1998; Meyer-Sahling, 2009b) also point to the long run features, like continuous disagreement on major values and political direction, fragile formal institutions, and frequent large scale changes both in the short run (after the elections) and in the long run (frequent regime changes), when the newcomers deny everything their predecessors did, and attempt to generate a 180 degree turn. This historic feature may also be a highly relevant historical feature to understand the societal, and within that, governmental functioning.

### **7.1.2. Bureaucratic Administration**

Description of the bureaucratic arrangement is typically traced back to Max Weber. Weber treated the phenomenon of bureaucracy mostly in two parts of his great work *Economy and Society* (Weber, 1978). Four attributes dominate the later studies of bureaucracy as an organizational phenomenon:

1. Division of labor (according to Weber: division of legal competencies / jurisdiction) and specialization;
2. Expertise (well-trained personnel with significant job experience, i.e. merit-based civil service system);
3. Rules, which define everything: structures, procedures, and individual responsibilities as well as the way the personnel (bureaucrats) get employed; and
4. Hierarchy; organizational units, personnel, and even the norms

applied are arranged in a vertical manner, e.g. chain of commands (down) and reporting and responsibility (up), while making information flow and accountability lines highly simple, and thus potentially transparent.

It is generally accepted that specialization and division of labor directly lead to increased productivity. Expertise, i.e. knowledge of how to deal adequately with issues at hand, has a similar effect. Rules may describe and enforce the one best way of handling cases; thus, they may also greatly contribute to an increased efficiency. Hierarchy assures coordination in the organization. Beyond their primary function in directly increasing efficiency, rules may also serve as a tool of coordination (see Khandwalla, 1974).

This bureaucratic arrangement, as elsewhere was argued (Gajduschek, 2003), assures the highest level of rationality, and most importantly, predictability of procedures and outcomes. This, in turn, is especially relevant in PA operations to assure the rule of law, especially equity, equal treatment, etc. Furthermore, hierarchy and rule-based behavior is a key for democracy assuring that elected top government officials may determine and control the administrative functioning to the greatest extent possible.

As for most of the new approaches, the new PA models have challenged exactly this bureaucratic model of PA. The NPM criticized its rigidity, monopolistic arrangement (i.e. lack of competition among the providers and lack of choice for the consumers), and consequent lack of efficiency. The NPG can be conceived as a serious critique of rigid, somewhat aristocratic-style of decision-making in small professional-bureaucratic circles, lack of openness, and hierarchical arrangement vis-à-vis deliberative processes with the participation of interested / influenced but non-professional parties. The Neo-Weberian approach, at least in its original meaning (Pollitt & Bouckaert, 2004), referred to an approach that, while strived to retain several bureaucratic elements, attempted to mix them with increased efficiency, client-orientation, openness, and participation.

### **7.1.3. New Public Management (NPM)**

New Public Management (NPM) has been analyzed extensively in the literature. In fact, this approach had dominated the discussion over PA (or in this context, strictly public management) for at least two decades before

2008. The great economic crises, however, have largely undermined the ideological basis of NPM, which can be, in a somewhat simplified way, defined as: ‘government is a problem, market mechanisms (i.e. competition, private management techniques) are the solution.’

Two main layers of NPM may be identified, as Pollitt & Dan (2013) point out, ideological one, praising market solutions, and heavily criticizing the size and the bureaucratic functioning of government, and another one dealing with various techniques that may solve or alleviate government failures. Critique is generally based on neoclassical economics, and especially, public choice theory (Weimer & Vining, 2011: 156–208). For instance, rigidity of financial or human resources management is severely criticized, and alternative solutions are offered (Hughes, 2012). As it is said, the merit system that assures life-long employment, and sets up wages based solely on position, practically on seniority, does not provide incentive for high performance as it favors average or even minimum achievers. The solution could be giving up the merit system. Civil servants should be employed under the labor law and their remuneration be dependent on performance appraised by their managers. Methods of business management, like TQM, MBO, are also widely promoted by zealots of NPM.

In the field of public services, they also prefer market organizations, or at least the competitive market mechanism that ranges from full privatization, through PPP and contracting out, to voucher system. From a structural point of view, they prefer independent agencies and devolution as these units may compete with one another.

In brief, NPM is a reasonable tag for reforms that introduce market mechanism, competition, or apply organizational and management arrangements imported from the business to the public sector. The achievements are measured mostly in terms of efficiency and client satisfaction.

#### **7.1.4. New Public Governance (NPG)**

Pollitt & Bouckaert (2004) introduced the term to describe a certain trajectory of adaptation, or rather reaction to NPM. The term clearly refers to the extensive governance literature (Peters & Pjeras, 1998; Kooiman, 1999; Rodas, 2000; Salamon, 2000; Sorensen & Torfing, 2016). The essence of this literature, in our view (Gajduschek, 2009, 2015b), is that the govern-

ment is not able (anymore) to make, and especially to implement policies alone, but in interaction with various networks of the stakeholders' groups (policy communities). These policy networks are formed in a mainly informal process from/by social groups that are impacted by the given policy. Groups like interested businesses, civic organizations, experts and others bring their interest and resources (including knowledge and information) into this bargaining-like process. The role of government may range from the position of an equal participant, through that of a mediator, to a key, though still not dominating actor. In the classical terms of political science, "participation" could be used to describe this approach. The interested parties are involved, and the decisions are made with them in a deliberative process.

This model appears typically in a CEE context as a normative model that is most widely known, in Hungary and in the region, as good governance. Good governance has been advocated by major international organizations as the appropriate way to organize government in the Non-Western World.<sup>21</sup> Irrespective of the roots of the term, there has been, by now, a relative agreement on the basic elements of its content (Kovač, 2015).

### 7.1.5. Neo-Weberian State (NWS)

The term first appeared in the second edition of the seminal work of Pollitt & Bouckaert (2004: 100), and was further elaborated in the third edition of the book (Pollitt & Bouckaert, 2011: 118–119). In both versions, NWS seems to be an alternative reform trajectory followed mainly by the Continental European countries not subscribing to the hardcore NPM ideology and practice. The new (2011, 3rd ed.) interpretation of NWS is somewhat more specific, seemingly leaving out governance arrangement from this concept. It seems to be a variant somewhere between the Weberian state and NPM, embracing mostly the managerial (vs. market and competition)

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21 The concept appeared first in the vocabulary of United Nations' development activities (see UN ESCAP), WB documents in 1992, and IMF documents in 1996. However, for several years, only UN documents emphasized the importance of participation, consultation, transparency, and the rule of law as equally or more important than administrative and service efficiency. In the case of the WB, and especially the IMF, it appeared as a somewhat modified version of NPM with the above-mentioned elements working rather as a democratic façade covering the harsh pro-market approach.

elements of NPM. Referring back to their earlier volume of 2004, Pollitt & Bouckaert (2011: 19) sum up: “In essence, this was an attempt to modernize traditional bureaucracy by making it more professional, efficient, and citizen-friendly. It was particularly characteristic of the stable, prosperous, Western European democracies which had sizeable welfare states – including Germany, France, and the Nordic group.” In this vein, the authors provide two sets of characteristics (ib.: 118–119) as explained below.

The ‘Weberian’ elements are: (a) reaffirmation of the role of the state as the main social actor; (b) reaffirmation of the role of representative democracy (central, regional, and local) as the legitimating element within the state apparatus; (c) reaffirmation of the role of administrative law regulating citizen–state relationship, including legal guarantees for the citizens; (d) high status and value of serving the public. The ‘neo’ elements embrace: (e) a shift from an internal orientation of rule-based action towards an external orientation towards meeting citizens’ needs and wishes by creating a professional culture of quality and service (i.e. not through market mechanisms offered by NPM); (f) active involvement and participation of the citizens in decision-making; (g) changing laws and accountability mechanisms that, besides – not instead of – internal procedures output and outcomes are monitored and controlled as well eventually involving some performance management techniques; (h) professionalization by adding special expertise besides legal knowledge, and increasing the importance of management skills as well as skills handling clients.

NWS has become a key concept of PA literature in CEE<sup>22</sup>. It regularly appears, for instance, in the publications of Wolfgang Drechsler (2005a, 2005b), the leading PA academics in the region, and in the paper of Randma-Liiv that provides an excellent summary on the drawbacks of NPM in CEE (Randma-Liiv, 2008). Seemingly, the concept has a special appeal in the region for various reasons. A relatively stable feature of various interpretations is that NWS is typically conceived – not necessarily in accordance with the original meaning – as a modern polar concept of NPM.

22 A simple search on Google Scholar yields 3,400 hits on ‘Neo-Weberian State’ compared to 659,000 on ‘New Public Management’ in the 2004–2013 period. However, if we look for the articles referring to NWS or NPM, and at the same time ‘Central and Eastern Europe’, we find that 42% (!) of the papers addressing NWS refer, in some way, to the CEE region, whereas only 2.6% of papers on NPM.

Pollitt & Bouckaert (2011: 120) call attention to the fact that “the precision of the NWS model, or the NPM for that matter, must not be exaggerated”. This may be the reason that in several countries of the region, and in Hungary as well, NWS has become a central tenet of government ideology requiring a “strong state”, centralization, and extensive regulation as opposed to autonomy, liberal arrangements, and reliance on market mechanisms. In other words, in the CEE region the term, as it is used in practice, frequently refers to etatist and centralist tendencies, and thus its denotation is closer to the bureaucratic, and to some degree, socialist model, and surely has not much to do with the neo (e-h) elements listed by Pollitt and Bouckaert.

## **7.2. On Major Governance Fields: Structure, Procedures, Personnel**

Below we will investigate three major fields or rather analytical layers of public administration as it is typically done by the Hungarian course books in public administration (Lőrincz, 2010), which are in fact almost solely administrative law (see Rixer & Patyi, 2014): (i) structure discussing separately central, local, and municipal organizations, (ii) functions and procedures (identified typically by the Administrative Procedures Act), and (iii) civil service (Civil Service Act and related regulations). We will, however, somewhat diverge from the typical Hungarian black letter law approach; we concentrate on the reality as much as we can encompass it.

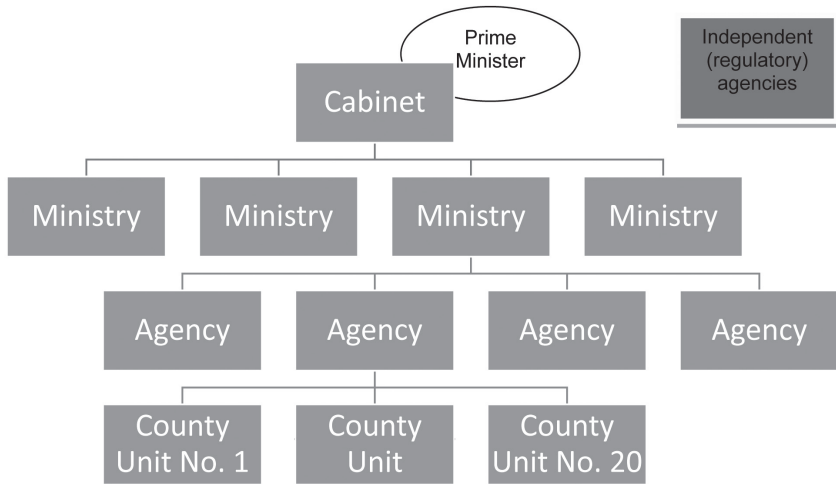
### **7.2.1. Structure of PA**

Traditionally, the structure of PA is divided into two main fields: the central government with its hierarchical arrangement, including territorial units (altogether called *államigazgatás* or state administration), and municipal organizations (called *önkormányzat* or self-government with both political-representative and administrative units).

#### **Central Government**

Until 2011, the central government had been hierarchically organized as reviewed in Figure 7.1.

**Figure 7.1:** Simplistic Model of State Administration before 2011



Source: own research.

On the top of the executive power is the Cabinet that consists of the Prime Minister and ministers heading also ministries (in some cases ministers without portfolio – especially in coalition governments). The President has no relevant role in the normal functioning of the executive. Formally, the Prime Minister is only *primus inter pares*, however, he has always played a crucial role, and his dominance has largely increased in the past decade or more.

Researching the central organizational arrangement in the past quarter of a century, Hajnal & Kovács (2016a, 2016b) differentiate between three main stages.<sup>23</sup> The first (1989–1998) period would be centered around the establishment and consolidation of a new organizational arrangement that fits to the polity of a democratic government. This included the establishment of external control mechanisms over public administration, such as the judicial control over practically every administrative legal actions, setting up a full-fledged National Audit Office (of the Parliament), ombudsmen, and one of the most powerful Constitutional Court in the world, last but not least the

23 Below we will greatly rely on these papers. However, we will use other sources as well which, at certain points, may be different from Hajnal and Kovács.

newly elected Parliament was to exercise severe control over the executive. The authors, referring to other publications as well, note that the control over the executive may have been too tight. While this was an understandable reaction to the suppressive nature of the executive during the socialist regime, it has also jeopardized government activities in several fields, leading to severe governmental anomalies that, in turn, may generated social distrust towards the rule of law (Gajduscsek, Gajduscsek, 2008b; 2015b).

Beside the formation of ministerial structures, the creation of agencies was a quite stochastic process in the early '90s, and consequently, the legal status of these organizations was chaotic. This has gradually been solved, and three categories were formed that remained – with some legal changes – relatively intact for a longer period. The first category controls a larger social sphere that is not in the portfolio of a ministry; the second serving on a field that is within the portfolio of a ministry but enjoys relative independence; and the third category that is organized only for practical-technical reasons (e.g. handling large number of routine cases) as an independent unit, in fact it could be a division of the ministry as well. The list represents a descending order in terms of status and relative independence of these organizations. (A forth type depicted as independent agency on the figure was introduced later as mentioned below.)

There are several likely reasons for the creation of a large number of these agencies. One reason is the consequence of democratic transformation that created new tasks that would enlarge enormously the size of ministries. In the same vein, with the disappearance of the Party apparatus the policy drafting shifted to the ministries, which then wanted to get rid of the regular-routine administrative tasks. Another reason may be the general pattern of agencification these times reflecting the NPM approach. A third, probably crucial reason lays in the centrifugal forces generated by sectoral independence efforts. Namely, ministries and agencies strived to control their own field without intrusion from above. This is a general problem in most post-socialist states (Verheijen, 2007) as emphasized by Hajnal & Kovács (2016b). The authors refer to several, failed attempts of the Cabinet to strengthen the overall coordination and control over the ministries whose autonomy largely prevented the formation of successful cross-sectoral policies.



The next period spans from 1998 to 2010. This period may be characterized, according to Hajnal and Kovács, by a gradual preparation for the EU accession.<sup>24</sup> Another key feature of the period is strengthening of the position of the Prime Minister. The so-called presidentialization of the executive is a widely discussed issue in the Hungarian literature (Pakulski & Körösényi, 2013; Mandák, 2014; Körösényi, 2015). This process is manifested in gradual strengthening of the Prime Minister's Office in terms of both size and legal status (becoming a Ministry). On one hand, this process, aims at increasing (some would argue establishing) effective political control over the administrative units, and on the other hand, aims at effective coordination of these units. Several coordinating bodies (committees) were created directly under the Cabinet, and several new agencies were established with a similar purpose, e.g. in the field of government-wide HR management, or the EU funded development projects. Meanwhile, the overall number of agencies was radically cut by amalgamation of agencies, or bringing back some functions into the ministries. This became characteristic especially after 2006. In the period of 2006–2010, the position of administrative state secretaries has been abolished, and only one state secretary was appointed to each ministry, who was admittedly a political appointee.<sup>25</sup> At the same time, a new – though in the international practice well-known – agency

24 It may be surprising that hardly any periodization considers that Hungary's EU accession was a key date, whereas in several other countries it may be considered so. Neither from structural, nor functional, or personnel point of view it has been considered as a major milestone for the Hungarian public administration, at least not for its internal arrangement. Similarly, András Körösényi, a leading Hungarian political scientist, in his recently published overview of the Hungarian political system in the past quarter century, set up the following periods: 1990, 1998–2006, 2010–date. The EU accession may have not become a milestone because Hungary started its preparation relatively early on administrative level, whereas the EU accession – at those times – was one of the few political issues that received unanimous support from all major political parties. Furthermore, the EU did not set up specific requirements towards the national system of public administration, and the Hungarian PA – at least on the surface – mostly met the general principles.

25 Previously, following the German system, there were a political and an administrative state secretary in each ministry. As the names suggest, the political state secretary was practically the deputy minister, who may act on behalf of the minister, for instance in the Parliament, whereas the administrative state secretary supposed to be a professional person, managing the apparatus and assuring the continuity. In reality, however, administrative state secretaries were also appointed on the basis of political, or rather personal loyalty. I.e. an administrative state secretary remained in position for about two years only, as when a new minister got to the position (even within the same party) the administrative state secretary had to leave as well (Staroňová & Gajduschek, 2013).

type was created, namely an independent – or in the Hungarian version – autonomous agency that supposed to report directly to the Parliament.

The third period starts in 2010. The essence of this period is a sharp statist turn and radical centralization that may be captured well in the structural reform. Most importantly, in our view, the state is captured by the ruling party, or more precisely by the head of this political party, one person, Viktor Orbán. This has been achieved mostly through informal instruments or personal/personnel policies. Heads of almost all relevant governmental organizations were appointed from a set of Orbán's personal allies – including the President, Head of the Parliament, Head of the National Bank, Attorney General – or persons from whom loyalty may have been expected – like Heads of the Judiciary, ombudsmen, members and the Head of the Constitutional Court, and heads of independent agencies, such as the one regulating the media. This led to empowerment of the executive and, on the other hand, decreased functioning, some argue practical termination, of control over the executive carried out by such institutions as the ombudsmen or the Constitutional Court. Checks and balances hardly function.

In terms of formal structural changes, the number of ministries has been largely decreased to about eight in the period. For instance, health care, education, social services, cultural policy were incorporated into the Ministry of Human Resources. Consequently, the internal ministerial structure has changed. The Cabinet is still composed of the ministers and the Prime Minister but key portfolios (like social policy or finance) are not directly present. The state secretaries within the ministries control these fields. Thus, beside the administrative and political state secretaries, state secretaries responsible for a portfolio are appointed to the ministries. The number of these state secretaries depends on the number of major portfolios of the ministry. These sectoral state secretaries are considered as political appointees, even by the law, whereas the administrative state secretaries and deputy sectoral state secretaries (responsible for the sub-fields, e.g. higher education within education) are considered “professional” appointees, though they are appointed seemingly on a political-personal basis.

The agency landscape has been under the reconstruction as well. In 2012, a new type of independent agency was created that is entitled to create statutory laws. This is a new element in the Hungarian system where this

type of regulatory agency was unknown, as a general principle was that laws might be made only by the entities that are legitimated by elections. Decrees (i.e. the laws made by the executive) may be issued by the Cabinet, individual minister, or representative body of local self-governments (valid for the citizens in the given territorial jurisdiction only).<sup>26</sup> Naturally, the heads of these “autonomous regulatory agencies” were also loyal to the Prime Minister.<sup>27</sup>

In brief, an extremely centralized executive, or more generally, government system has been created relatively quickly after 2010. While it may be questionable if this arrangement meets the requirements of a democratic system, and it is surely deficient in controlling the executive according to the principle of checks and balances, it also gave – though a radical – answer to the challenges accumulated in the previous two decades caused mostly by the governmental system formed in 1990, largely as a denial of the socialist past. As we indicated above, the executive was controlled (through legal guarantees and constitutional organizations) to such extent that it was hardly able to carry out the basic functions like enforcement of laws or effective presentation of public interest over illegal personal or small-group interests. Orban’s so-called political governance (Körösiényi, 2015; Pesti, Farkas & Franczel, 2015) solved most of these problems and several others. Meanwhile, professional aspects in government may hardly be voiced over the central political will. The ministerial apparatus is strongly discouraged to provide any professional feedback if that contradicts the intent of the political center (Gajduschek, 2016). This, in turn, results in a bulk of erroneous Cabinet and ministerial decisions.

## Local and Territorial Government

### Local Autonomies and Administrative Units in the Hungarian System

The scholarly literature differentiates **between** three major types of organizations at the local level: administrative units subordinated to central agencies (in the Hungarian literature called also deconcentrated organs),

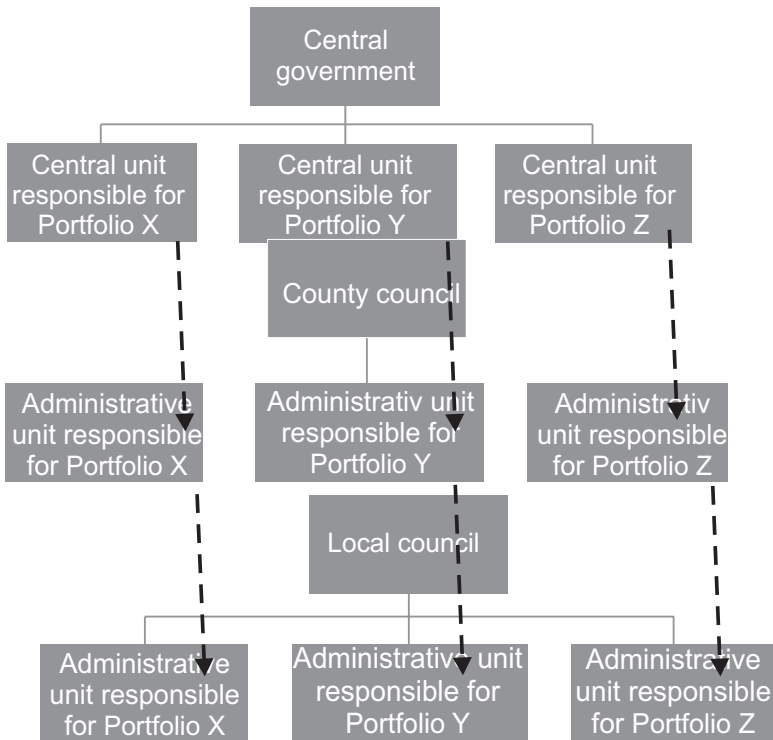
26 An exception to this rule may be the Decree of the Head of the National Bank which was on the level of Cabinet decree but could refer to a highly specific field, not directly setting up the norms for individual citizens. A brief overview of the Hungarian legal system is provided by Rixer (2012).

27 For instance, the first Head of the ‘Media Authority’ was the well-known media expert of the Orbán’s ruling party FIDESZ.

self-governments that function at the local and county level as well as non-traditional administrative organizations. The local level in Hungary means the level of settlements let this be a city (Budapest and the 23 so-called cities with county rights), towns, or villages (the smallest is with about a dozen citizens). Every such settlement elects its municipal representative body and the mayor. The historically stable mid-level unit is the county. There are 19 counties plus Budapest, which is a local and county self-government at the same time. Local units of central agencies have been typically functioning at the county level. For a short period, such agencies operated at the so-called regional level (seven such larger territorial units were created in relation to the EU accession), and after 2013, at a smaller territorial level called “*járás*” (hereinafter: district). 175 such districts exist, and the 23 districts of Budapest have an identical legal status.

During the socialism, soviet-like councils were dominant below the central level (i.e. there were only a few agencies functioning at the sub-national level). These councils, while formally had a locally elected body, were, in fact, organized in a hierarchical manner. Local councils were subordinated to county councils, which conveyed the central will, while became themselves a kind of power node in the structure. During the 1970's, roughly parallel to the process in the West, larger councils were created by the amalgamation of several small village councils, typically against the will of citizens. The structure of the offices of these governments mirrored the ministerial structure of central government. This arrangement is depicted in Figure 7.2.

**Figure 7.2:** Schematic Structure of Soviet-Type Council System



*Source: own compilation.*

The transition in this field was (also) motivated by the denial of the previous regime. The goal was to create highly autonomous local governments, responsible for organizing the life of the town and providing most of the public services. Furthermore, taking into account the will of the citizens, all settlements became entitled to launch their own local governments. As a result, more than 3,000 local governments were created, though villages below 1,000 inhabitants were required to run a joint office. It was also hoped that a spontaneous cooperation would occur, and gradually larger units would be formed. This did not happen in the past quarter century. Municipalities were established at county level as well. However, they

had no control function over local municipalities. They were responsible for services that local governments could not provide.

There were three stages of the development so far. After the transition, the consolidation and a relatively stable period occurred (1990–cca. 2004–05), a crisis emerged (2006–2010), and then radical institutional changes have been taking place since 2011. First, we address the structural arrangement of the first two decades, referring also to the deficiencies, and then we review the crucial changes that took place from 2010.

In the first phase, high level of local autonomy was provided, in spite of the economic recession and crises coming with the transition, as several larger revenues were generated for the municipalities. The revenue was created by selling the assets that earlier constituted an indivisible state property and that were passed to the municipalities, and the shares received in return for property rights. This was the case, for instance, in the gas network services. In addition, during the privatization of former state companies, local governments could have the right to the value of the land of these companies. Some of the municipalities were farsighted enough to spend this money on development projects that might generate further revenues later, such as infrastructural investments serving the establishment of new enterprises, creating new employment opportunities, and so on. Some others, however, spend these extra sources on running costs.

Nevertheless, smaller municipalities with less or none extra resources may not be able to use strategic approach, as they had to tackle critical problems, such as bankruptcy. In these cases, extra resources were spent for current operational goals. In some cases, incompetent decisions led to prestige investments, such as football arenas.

Another source of strengthening of the autonomy in that time was the increasing role of non-state actors in providing of public services as the local autonomy supposed to be based not only on state-involved institutions (such as elected bodies, their offices and budgetary schools, social care homes, etc.) but, directly, on communities of the settlements providing various public services. These associations, foundations, and voluntary organizations involved in the provision of public services have an effect on the public service management as such. If the government counts on these actors as at least supplementary providers, its policies must be har-

monized with the non-state actors. For instance, this policy requires normative grants for all actors. Consequently, the effect on the state sector is also visible in setting up more open, measurable criteria, and at the same time, much more independence was provided for the professional work of schools, cultural institutes, etc. The effect is also measurable from financial point of view. Quite a lot of resources arrived to foundations, non-profit organizations, and churches involved in different educational and social welfare activities incurred outside the general government expenditures (Horváth & Kiss, 1996). Such services were organized so as to complement the functions of municipalities. In this way, the number of choices for the consumers and the users increased. Special services were also provided by these alternative actors for the users whose needs could not be adequately served by the traditional system. Thus, the option of choices became general among schools maintained by local governments, foundations, churches, and private undertakings (in the case of private schools).

More than 3,000 communities authorized with a relatively wide set of rights, responsibilities, and financial resources created new foundations for the development of the whole public sector, including intergovernmental levels and their administration in Hungary. The greatest challenge facing the Hungarian local management system at that time was the need to create a proper mechanism for enhancing the relationships between particular autonomies. Independent units with tools of their own should recognize the connection among settlements, and face the regulation of linkages focusing on adequate institutional, financial, and service-providing instruments.

Horizontal and regional intergovernmental relations became crucial in this arrangement. In a system where many small municipalities enjoyed substantial independence, special attention had to be paid to the cooperation among municipal and county governments. One of the opportunities was to form associations within them in order to fulfill their common tasks. In the first decade of new municipal development, local governments were quite reluctant to establish such joint structures. E.g. running jointly a secondary school, or an administrative unit dealing with special licensing, etc. The Act on Local Governments enumerated different forms of such structures, however without any obligation to form them. Only indirect incentives led to make administrative associations of official affairs and rural

joint offices. Because of the strong autonomy, it was difficult to reach the economy of scale either in organizing administration or providing public services. Municipalities were not eager to cooperate because of their strong feeling for independence, and they were not motivated enough either. Urban areas, on the other hand, were traditionally ready for coordinated delivery of certain services for an larger area. For instance, towns are responsible for maintaining colleges for secondary school children attending from the surrounding smaller villages. It is a traditional task of towns. Later on, from the early 2000s, central incentives were introduced to strengthen cooperation in and with rural areas, financing supplementary costs of this kind of re-organization mainly in administrative services.

Another way of motivation in order to widen intergovernmental relations was managing regional relations. According to the original concept and its realization in the first 20 years of the development, there were three distinct types of organizations in PA at the medium territorial level. First type is the county self-government, which was not superimposed over the local governments. Secondly, there were deconcentrated organs and offices in each county responsible for coordinating these organs, but had a limited success. Finally, special corporate bodies were working to fulfill various tasks under the control of delegated bodies, such as councils for territorial development and labor councils.

Basically, the county government carried out the tasks serving several settlements or the entire county. There was also a possibility to take over some of the responsibilities that the local governments were not able to carry out (e.g. a town to run a secondary school). In this case, county level is only subsidiary way of management.

Deconcentrated organs (administrative units of central agencies with a territorial, typically, county jurisdiction) carried out most of the administrative activities. Before 1990, only a few such organs (like land registration offices) existed, whereas after 1990 dozens of such agencies appeared within a year. The most important reason may be the changed controlling power of central government organizations. In the socialist system, as it is depicted in Figure 7.2, administrative units of the councils, especially the county councils, largely reflected the structure of central government. Most central units (ministry or agency) had its parallel unit at county and



even at local level. These units functioned under so-called double control. On the one hand, they were responsible to the Executive Committee (e.g. the general secretary) of the council, and on the other hand, to the appropriate central agency (e.g. consumer right protection). After 1990, as local self-governments, were not hierarchically subordinated to central agencies and they shaped their offices according to local needs, so the opportunity anymore for a hierarchical coordination was lost and other ways of coordination have been alien, or even unknown to the Hungarian administrative culture (Hajnal & Kovács, 2013).

Furthermore, central government units (either ministries or agencies) reasonably believed that local governments (especially the small ones) lack the expertise that is necessary to carry out these functions. As a reaction, they established their own territorial agencies. These county level agencies, while working in the same territory, hardly communicated with one another, thus being unable to act in a harmonized way, let alone in synergy. Coordination of these agencies at the county level has been a continuous problem during the first two decades (Hajnal & Kovács, 2013).

There were also special corporate bodies at the middle level. They are characterized by the need to integrate traditional administrative functions and social involvement on delegated basis. Therefore, the representatives of local and county governments and the delegates of social organization were involved in these corporate bodies. These structures, such as Quangos, were based on that type of activity to draw various interest groups of society into the administration.

One of the corporate bodies are county and regional development councils, which were established in 1996. Their function was to enforce the objectives of central government regional policy and to coordinate related tasks. Delegated persons of different ministries, involved counties and towns with county rights, representative associations of small settlements and other delegated members were involved. Councils' managements operated as non-traditional agencies. Long-term development concepts were elaborated by them, including financial plans. They were allowed to collect funds, and explore assets contributed by private stakeholders and entrepreneurs. County- and region-wide development projects were managed in this way in a result-oriented manner.

The other more important type of corporate bodies were county labor councils. They were established in 1991. Their most important tasks were to allocate state funds for the purposes of promoting employment. In addition, they enjoyed various rights to initiate and formulate opinions with respect to employment programs, and monitor effectiveness of labor market interventions. They professionally supervised the labor policy management in their territorial competence. The members of the council represented local governments, interest of employers and employees. Councils made their decisions about quite a crucial amount of financial resources on a consensual basis.

The above-mentioned solutions on intergovernmental relations showed openness to economic and social environment of public tasks. The mixed composition of delegates and decision-making bodies which comprises the representation of central government, local authorities, chambers and other lobbies, by the law, gave expression to a wide variety of interests. Though these bodies were not key players in territorial administration, their role is especially crucial for our research as these entities represented an alternative to the classical, hierarchical, strictly structured organizational arrangement. In that vein, they may be considered as manifestations of an NPG-type of arrangement. (Their 'early death' could thus also be an indication of a poor chance of this approach in Hungary.)

Since approximately 2006, a crisis occurred, or became evident. The tension between the small size of most municipalities and the wide range of task and high level autonomy have been addressed soon after the new system was established (Verebélyi, 1991), and then analyzed more in depth (Pálné Kovács, 2012; Horváth, 2016, 2000), including books issued for the tenth (Verebélyi, 2000) and twentieth anniversary (Kákai, 2010) of the establishment of the municipal system. However, the given arrangement was favored to such extent by the citizenry, and a potential change would be opposed by so many local power holders that it seemed politically impossible to change inefficient and dysfunctional elements of the system for more than a decade.

The municipal system gradually revealed several deficiencies by the 2000s. Firstly, local and other autonomies (actors of governance instead of simply government) lost from their ethos. The role of interest groups incre-

ased, frequently capturing the local government. Secondly, municipalities remained relatively reluctant to cooperate in a more developed manner in spite of positive cases. Thirdly, administrative regions were not developed to representative regions (like in Poland for instance) but their position gradually weakened. Fourthly, in the budgets of municipalities central grants were devalued by that time generating a constant tension in education and healthcare. Consequently, the social trust had gradually lessened. The lack of well-trained personnel at municipal offices<sup>28</sup> caused insufficient administrative capacity. Efficiency losses became evident because of the economies of – small – scale, and potential democratic deficiencies stemming from the very weak legal control of municipalities. Whereas several settlements profited from the functioning of their municipalities by finding specific local solutions to the local needs, a few others may have been run by a few families, suppressing local opposition, and misusing local resources. Some local leaders wanted to satisfy the electorate's needs by accumulating large local debt as there was no central control over local indebtedness, whereas the central government was responsible for all government debt payments.

In the third phase, as an answer on tensions of the former period, the Orbán's government (from 2010) replaced the emphasis of the territorial system from local governments to the state administration. Enormous changes were brought in this field as well. With the establishment of the so-called County Government Offices almost all previously independent deconcentrated organs were integrated (some would formulate forced) into these Offices – a major exemption being the tax authority, presumably as it has a uniformed service unit as well. Somewhat later at the lower level, District Government Offices were established. While these Offices (altogether 198) work at the lower level, smaller territorial jurisdictions, from a legal point of view, are a part of the Country Offices – they are not independent legal entities.

The County Government Offices are lead admittedly by a politician, the Cabinet Commissioner, and frequently a Member of Parliament of the

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28 The fact that several municipal offices consisted only of 3-6 civil servants of which only the chief executive officer held a diploma was in sharp contrast with the fact that these offices were responsible for making various legally binding decisions, drafting and implementing policies regarding education, social and environmental issues, garbage collection, etc.

ruling party, thus the Offices function under a direct political control. The Commissioner is assisted with a country director who supposed to be a professional civil servant. This arrangement, while not unknown in the international practice, was surprisingly new in the Hungarian system. Previously, it was formally expected that professional career civil servants lead central agencies, and this expectation was stronger at deconcentrated organs (at a lower level of administration). This has radically changed in the new arrangement where the political head has a veto power over any appointment to managerial civil service positions within his/her Office. In this way, the sub-national administration was placed under a direct political control, the political will from the center can be conveyed directly (prime minister – political county ‘commissar’ – specialized territorial administration) instead of a much longer chain of command (prime minister – minister – central agency head – county agency head – specialized territorial administration). The longer chain that includes professional actors is less favorable for ‘political governance’ as the command may be distorted or even sabotaged, thus professionally and especially legally questionable orders may be blocked. A graphic summary of Government Office structure is provided in Figure 7.3. Arrows refer to the lines of controlling. Normal lines refer to so-called organizational control exercised most of all by the Cabinet Commissioner through HR and financial decisions on availability of resources to various units. Professional-administrative control over the county boards supposed to exercise control by the relevant central agencies (e.g. Consumer Right Protection Agency), whereas these county boards supposed to exercise control over relevant functions of District Government Offices if such an activity is carried out at the level. (This arrangement is similar to the double control of the socialist council system depicted in Figure 7.2.).

The Orban’s government has completely transformed the municipal system. While the municipal organizations (we may say the structural façade) have remained intact everywhere, the county municipalities practically lost all previous relevant functions and existed as an empty shell. Local governments have lost several functions in public services as well. Most importantly, the elementary and secondary education (the largest chunk in municipal budgets) was re-organized under a central agency, the municipal role in health care system was abolished as well and some of the social ser-

vice functions were also terminated at municipalities. Furthermore, more than a half of legal functions (licensing, etc.), and the major tasks of municipal offices were shifted to the District Government Offices. Villages with less than two thousand inhabitants had to join to a unified office.

**Figure 7.3:** Generalized Organogram of a County Government Office



*Source: own compilation.*

The Orban’s government seemingly favors centralization and hierarchy over autonomy. All their radical reforms aim at strengthening the role of political center and minimizing any type of autonomy. Centralization means primarily a political as opposed to administrative centralization. In this regard, the reforms of the Orban’s government seem to be closer to the bureaucratic and – in terms of party control of administration – the socialist model.

In a wider historical perspective, the extreme centralization of the communist system was exchanged with a high level of autonomy immediately after the collapse of that system. One may argue that this was an extreme level of autonomy in an international comparison with hardly any control over municipal activities. After about two decades this system, that undoubtedly generated deficiencies besides the several success stories, was replaced again by an extremely centralized structure (e.g. where all schools of the country supposed to be managed centrally from Budapest). In other

words, the pendulum keeps swinging from one extreme to the other. However, more time and information is needed to provide an in-depth analysis of the new structural arrangement at the sub-national level administration.

### 7.2.2. Functioning and Operation

This aspect or dimension of government may be further divided into at least three main fields. The way governmental decisions are made, general features of public service provision, and administrative legal procedures.

A general aspect of government functioning in the region but especially in Hungary is the so-called legalistic nature of governance (Liebert, Condrey & Goncharov, 2013: 353). This may be captured by a high proportion of lawyers among civil servants, especially in higher positions (Gajduschek, 2008a: 146–152), in the content of PA education (Hajnal, 2013), and in the general assumptions about the nature and function of PA (Gajduschek, 2006, 2012). In this view, government activities are conceived in a legal as opposed to a policy setting. The function of the executive may be divided into two fields: making and applying (adjudication, monitoring and enforcing) laws. Some of the most important consequences of this approach may be the lack or distorted reflection of the social problems (as a starting point of the rational “policy cycle”), lack of precisely defined goals and lack of systematic assessment of the expected outcomes Staroňová, 2010; Gajduschek, 2016; Laws may be adopted for their own sake (not for any social purpose), whereas the implementation of these laws is somewhat sporadic, stochastic, or simply missing (Falkner & Treib, 2008; Hajnal & Ványolós, 2013). We will not address this otherwise crucial characteristic here.

#### Decision-making

According to the official process laid down in the Resolution on the Procedures of the Cabinet, laws (and thus policies) are drafted by the ministries. The next step is the consultation with other ministries and possibly with stakeholders. About ten days before the proposals reach the Cabinet meeting, they are discussed during a weekly meeting of the administrative state secretaries of the ministries. Most of the proposals become the Cabinet Decrees or are submitted to the Parliament for legislation.

The reality is highly different from this ideal. Based on the interviews Pesti (2000) described these differences, which may have largely exacer-

bated after 2010 (Pesti, Farkas & Franczel, 2015; Gajduschek, 2016). Summing up the Hungarian literature in this regard, the major distortions may be: (a) laws are not drafted by the ministries but frequently at law firms close to the ruling party; and several proposals are (b) submitted to the Parliament at a personal initiative of a Member of Parliament. In this way the professional and democratic scrutiny is completely excluded and the consultation is avoided as well. The method has been especially intensively used since 2010. The proportion of such submission of draft laws preventing any kind of transparency jumped to 34% in the first 2.5 years of the Orbán's government, and that is about the double of the previous periods, whereas the Parliament devoted only 34 days on average discussing an Act, that is a bit more than a half of the time devoted during the period of the previous Cabinet.

In fact, the period devoted to preparing and drafting has always been very short. It is well known from the interviews that the laws are prepared on an ad hoc basis instead of a well-planned manner. In some cases, only a few weeks or even less are devoted to the whole process. The time has hardly ever been enough for other ministries to carefully read and comment the proposed draft laws. The Orbán's government typically and seemingly intentionally neglects the discussion with the stakeholders, or it is carried out with loyal stakeholders and so called GONGOs.

There has never been sufficient policy capacity either (Goetz & Wollmann, 2001). There are practically no civil servants at the ministries trained in policy analysis methods. A highly legalistic nature of the administrative culture and a strong political intrusion into professional issues make impossible to build such a capacity. Furthermore, the extremely short time and ad hoc nature of law making makes it impossible to assess the expected outcomes of laws (RIA) (Staroňová, 2010) and even the assessment of necessary public resources (human, financial, technical, etc.) for their implementation. These deficiencies have been present for a longer period, though they have exacerbated significantly since 2010.

### **Public Service Provision**

The term 'public services' includes public utilities and communal services, a large and highly heterogeneous field from network industries provided by the public companies (water, sewage) to gas and electricity companies

(frequently provided by the private companies), public transportation, garbage collection, and road maintenance that may be shared between private firms, national, and municipal companies. Another large segment of public services are so-called 'human services,' like health care, education, social services, most of which are typically provided by the municipalities.

The Local Government Act (1990) was one of the first laws passed by the freely elected Parliament. Quite a wide range of services was delegated to the responsibility of municipalities. In the framework of infrastructural services the provision of healthy drinking water, public lighting, solid waste management, maintenance of roads and cemeteries became an exclusively local function. Additionally, urban settlements maintained public transport, sewer, district heating, etc. Among human services, every municipality was responsible for providing kindergarten services, primary education, basic health care, and basic social services for the elderly. In addition, cities maintained secondary schools, basic hospitals, specified elderly care homes, etc. The legal solution of discharging tasks ensured the equality of settlements as far as the extent of responsibility to fulfill public tasks is concerned. It was contradictory that in spite of the fragmentation, functions were very wide and expensive. However, budget instruments were to follow the breakdown of responsibilities stemming from the discharging of tasks.

Parallel to the devolution, a radical privatization process took place, in the meantime, led by the State Property Agency in the productive and the service-providing sector, thus reducing government functions. For instance, medicine, films, dairy companies, previously owned by the county councils, were mostly privatized.

In the 1990s, various international programs (PHARE, USAID, British Know How Fund, WB programs, Soros Foundations OSI, and pre-acceding support programs of the EU like ISPA, SAPARD) focused (Horváth, 2007: 9–10) on either the development of democracy or the provision of public services at the municipal level. For instance, a countrywide network of integrated landfills for solid waste was established with the support of US AID and ISPA. It means that the political and administrative transformation was extended to the functional profile of local authorities.

From the functional aspects basic changes in public service provision (Horváth, 2015) took place as summarized in table 7.1.



**Table 7.1:** Basic Changes in Public Service Provision from the System Transition

Stages of changes [(a)→(e) detailed in the analysis]	Transformation →	Liberalization →	Realized model of privatization →	Budgeting crisis →	State-owned solutions →
Utility services	Re-structuring	Unbundling / contracted public companies	Privatization contracts	Increase of fees and charges	Public holdings, state-owned enterprises (SOEs)
Human services	Service de-centralization	Outsourcing / contracted public institutes	Selling assets	State-center solutions	Re-centralization

*Source: own research.*

Now, the main stages of the process are described in details.

**Transformation.** The transformation of the utility sector (Fleischer, 1994: 9–15) began in the early 1990s. The first step was the restructuring of state monopolies. It meant the auditing of companies, then the transfer of ownership from the state to local governments. At this point, former budgetary companies were transformed. Firms became subjects of company law, while all their shares remained the property of municipalities. Another precondition at this stage was unbundling, i.e. division of assets which can be sold or, if it is considered more beneficial, to be retained as a public property. After that, marketing of a certain amount of shares took place, if it was possible at all. Privatization under the policy of liberalization may have consisted at least of four phases (Horváth & Péteri, 2001). The first stage was communalization, i.e. transfer of state-owned property to municipalities. This process, among others, supported local governments to face the total real costs of services, and to identify the subsidies needed for their particular activities. The second stage was corporatization as mentioned above, i.e. transformation of companies from the state budget under the corporate law. It meant 100% of shares owned by the municipalities at first. The third stage was privatization, if happened, inviting domestic or foreign investors with the aim to attract external capital. The fourth stage is that semi-independent regulatory agencies were established.

While the trajectories may largely be different in various sectors, the

underlying process was similar. In the water sector, an extensive fragmentation occurred with the creation of around 400 local government service organizations and 5 state-owned regional companies in 1991–92 instead of the former 5 national and 28 regional companies. On the other hand, solid waste management became integrated and large scale enough company to operate services economically. In the service provision of district heating 290 local heat generation and distribution companies were transferred to 103 (urban) local governments (Horváth & Péteri, 2004: 309). After restructuring, semi-independent regulatory authorities were established for the energy sector (gas, electricity, district heating). For other service areas central state offices or municipalities had control over the operation and restricted prices to some extent.

As far as human services are concerned, particular service – decentralization took place. Main characteristic elements of the process consisted of the following elements. The role of the NGO sector increased in the provision of social services. Churches and private charity organizations re-emerged in social care, maintenance of secondary schools and, to a lesser extent at that time, also in the area of basic education. Simultaneously, operation conditions of state-owned and municipal institutions also changed, allowing a spread of sector-neutral financing and quasi-market conditions in operations.

**Liberalization.** After this kind of preparation of service providing in the sector, the liberalization process began to spread. This development started around the middle of the 1990s. In the public utility sector, it led to privatization. In the area of electricity, after restructuring the industry and service, delivery relationships of ownership became different in terms of productivity, maintenance of the distribution network and service provision. The Hungarian Electricity Board (MVM) transformed into a commercial company, which remained state-owned. Shares of the six regional electricity trade companies were finally obtained by three big investors, like the German energy suppliers RWE and E.ON, and the French EDF. 25%+1 of shares of gas distribution companies remained state-owned according to the law. The Budapest Gas Works, which were traditionally linked to the capital, remained partially owned by the Budapest City Government after the transition.

As far as the “outsourcing” of services is concerned, human services, especially in the area of elderly care, were increasingly being taken over by the non-profit organizations. The number of civil-sector organizations grew dy-

namically during the transition. According to comparative data (Civic Atlas, 1997), this figure was 430 per 1 million inhabitants in Hungary at that time (the second highest in the region was Czech Republic with 400).

By the middle of the 1990s, the transfer of state-owned core assets to local governments was completed. Then two parallel stages followed. A part of the transformed companies managed to privatize, while others failed. At least three good reasons were responsible for the managed privatization of public companies by the decision-makers. Firstly, private capital seemed to be more efficient to economize than the public sector. Secondly, a price competition arose due to the privatization tender (which includes consumer pricing formulae over a longer time period). Thirdly, responsibility may be taken for local functions through private providing companies. On the other hand, large West-European companies in the energy, water, and waste sectors were ready to enter in the open, regulated market in the 1990s and 2000s. These companies and their investors, in general, naturally followed their own interests. The whole pre-accession process to the EU very much supported this progress.

Simultaneously, other companies remained non-privatized for various reasons. Fees paid by the consumers may not cover costs, and subsidies are not defined clearly in advance by the normative regulations. Privatization often needed to sell the infrastructure itself, apart from the right to provide the service. Separating the maintenance of network infrastructure and service supplement initially aimed at making providers interested in increasing efficiency. Acceptance of this aspect very much depends on the investors. Nevertheless, these companies were re-organized widely to increase their effectiveness and efficiency.

It is hard to say that this phenomenon concentrated on one type of service or another type. Indeed, the particular solution depended on the result of policy strategy in the specific municipality. For instance, in the water sector local governments chose very different options. Some of them even sold out the core local assets, like pipe networks, while others maintained their ownership directly supervising the providers' activity, especially price setting. There are also examples of a shift in local strategy after the failure of direct and extreme privatization. Especially, in the city of Szeged the extreme rise of consumer fees led to a scandal, therefore the municipality made another contract out on a different basis. It was a much more controlled and publicly

regulated model of water service provision than it had been before.

**Privatization.** Generally accepted paradigm of privatization was as follows. Shares were sold to the professional investors who were involved in the particular sector. For instance, water network services were announced to operating water companies, and not simply financial investors. Mainly large West European-centered firms won the tenders, and their founded daughter companies started to provide services. Sometimes purely profit-oriented state-owned enterprises operated these huge international networks doing it with long tradition.

Consumer prices agreed upon in the privatization contracts were based on formulas for year-by-year basis. Because of the relatively underdeveloped regulatory control and not sufficient experience of even large municipalities, they could not create enough guarantees for longer period to keep conditions under control. However, it was accepted at that time, that the state aid should be stopped, and it was necessary to cover maintaining and development costs from user charges.

This scenario was heavily criticized more than fifteen years later. Two main arguments were emphasized. Firstly, prices of public utility services increased continuously guaranteeing fixed and long-term profits for providers. Secondly, international owners were accused of distributing profits to abroad.

**Crisis.** Severe budgetary crisis emerged in Hungary from 2005–2006. By that time, restrictions on overspending on social services became clearly visible to the public. School maintenance for every settlement, including the smallest one, seemed to be unsustainable. Some hospitals operated by smaller towns had to be closed in spite of the protests. In addition, although 63% of elderly care homes were maintained by the local government institutions, as well as 17% by churches, and 20% by NGOs, in the meantime, formerly equal rules and sector-neutral financing had been changed. Experts had been talking about the re-emergence of a state-centric role in service provision (Gyekiczky, 2009) since that time. Budgetary institutions under state direction gained exclusive influence over the delivery of public services at the expense of NGOs or private bodies.

A specific answer to the budgetary crises from the side of larger urban municipalities was the establishment of integrated institutions in human services. Similarly, municipally-owned companies were re-organized as holdings,

such as entities of corporate governance in public ownership. Some examples of re-municipalization took place in the early stages of this period. Then the bank crises deepened these conflicts because the local debt also increased.

**State-owned solutions.** Since 2010, these phenomena strengthened into a clear tendency. Larger municipalities at first, and then later the central government started to get back shares of formerly privatized providing companies from private investors. The motivation was to control the increase of consumer fees in a direct way, and to limit investors' profits. Municipal owners started to shift non-privatized companies into the direction of becoming multi-utility companies. Multi-utility holding companies were established from single-profile municipal companies in order to exploit options for synergies. At the same time, so-called in sourcing emerged in contrast to the formerly exclusively preferred model of outsourcing. This development was not independent from the changes in the EU legislation. Municipal corporate governance (Grossi & Reichard, 2008; Grossi & Thomason, 2011) emerged in Hungary similarly to what took place in other European countries. However, it makes a difference that the process was quite heavily promoted by the regulatory environment.

Privatized companies are owned by foreign investors, i.e. West-European groups of monopolistic providing companies, like the German RWE, E.ON, EnBW, the French GDF and EdF, the Italian Enel in energy sector; the German RWE, Berlin Wasser, the French Suez, Veolia in water supply sector; the Austrian A.S.A. in waste management, etc. There are crucial differences between re-municipalization or corporate governance on the one hand, and nationalization on the other. The Hungarian government of 2010 placed this issue at the center of its policy agenda. Some of the key dilemmas of the whole process in the region may be illustrated by the Hungarian case which represents a rather extreme answer to the ongoing challenges facing Europe. The characteristic feature of the developments in the 2010s is the emergence of governmental opposition to the former process of privatization. Prime Minister Viktor Orbán argued that private companies had abused their dominant position by overcharging for their services, and wanted to buy back the shares. This was one of the key motivations for changing the political system (Hajnal, 2014) and market relations, including public services provision. The national-conservative ideology paradoxically focuses on state-centered solutions for every conflicting social or economic issue. Market-orientation shif-

ted to state-centered defense of so-called national interests.

The local government system has become highly centralized with the setting up of the County Government Offices and District Offices as described above. Maintenance of public schools, previously a task of self-governments, was shifted to a central agency, whereas civil control over the education system ceased to exist. Institutions previously run by the county level self-governments, like social care homes, hospitals, and special schools, were centralized. Regional development was also centralized. District Offices took over most of the bureaucratic work of mayors' offices. By 1 January 2013, an average urban government lost one-third of its public servants with their technical belongings, such as rooms, computers, furniture in offices, etc. Now, they are 'state servants'.

The economic environment of public utility service provision has also changed since 2010. Several measures were undertaken to centralize profits from the energy, water, waste, and other public utility sectors (funeral, park maintenance, chimney sweeping services). Providers are now burdened with a central tax levied on public utility networks. A general cut in prices of user charges is required, and a new supervisory fee has been introduced. Municipal utilities previously exempted from some of the taxes are taxed now, making costs of municipal units higher.

Recent acts clarify that public service infrastructure created in the future may be publicly owned only, though management rights can be transferred to private companies to operate services. It is planned that the purchasing of shares of existing service providers shall be done with credit that companies will pay back from their profits. However, banks find risk too high and they are reluctant to finance this. Maintenance costs are covered by user charges; however, tariffs are defined by the Parliament and the government. The aim of the national government seems to be to shift public utilities to non-profit-making services. In this case, the role of municipalities has not yet been specified nor the providers' presumable counter-interests.

It is easy to detect a change in the EU regulation regarding public service provision. It is also evident that a general change in this regard has occurred in Western Europe as well in the past decades that may be described as

a movement from public to private and from private back to public<sup>29</sup> service provision, though this does not mean a perfect reversal. Methods of handling problems raised by the private monopolies in the field may include regulation of profit-rate interest or increase transparency, renegotiation of expired service contracts, or in-sourcing. Instead of relying on a variety of methods, the Hungarian central government relies solely on hierarchical bureaucratic coordination as a means to handle this market failure. A complete refusal of privatization and most of other methods involving the private sector in this field is manifested in this simplistic solution. Functions were reallocated from private to public actors and within the public sphere, preferably to the least autonomous ones. In terms of the models identified above a similar pendulum movement may be identified that we found regarding the structural changes. The first decade of transition may be characterized by an increased role of non-governmental, most of all business and civil-NGO actors. This could be described as an NPM approach. However, one part of this tendency is due to the inevitable termination of socialist institutions, like privatization of companies previously owned by county council but being purely market companies, like dairy production companies. Others may fit well into the European tendency and even the EU requirements. Since 2006–2007 and especially after 2010, a sharp turn may be detected, which, in terms of models, may fit most – again – to the bureaucratic, possibly to the simplified NWS or the socialist model.

### **On administrative procedures<sup>30</sup>**

The first comprehensive Administrative Procedures Act<sup>31</sup> was adopted in 1957 (Act IV/1957), just a few months after the 1956 uprising against the totalitarian regime. Though the preparation and drafting of the law started in 1955, most commentators regard it as part of the consolidation initiated by the Kadar regime of providing certain guarantees to the clients of administrative processes. The law was largely amended in 1981, and of course, major amendment took place in 1990 providing increased level of guarantees for the clients, most importantly allowing a judicial review of all administra-

29 See Wollmann & Marcou (2010) about this problem throughout Europe.

30 An overview of the content and changes in the law up to 2006 is provided by Fazekas (2007). More recent overview in Boros (2014).

31 The law has been dealing only with the decisions applying to laws in concrete cases, not on administrative law making, which is regulated by different laws.

tive legally binding decisions (Darák, 2014). In 2004, a new Act (No. 140) was adopted based on the suggestions of a drafting committee. Though there were several new institutions in the law (e.g. administrative contract as a substitute to sanctioning, some new ways of appeal processes), these do not seem to work in practice. A further important element was a detailed regulation of administrative fees, determining the obligation of clients but also used as an immediate sanction towards administrative units not fulfilling their obligation (e.g. not completing the procedure by the deadline, the fee or twice its value must be paid back to the client). The new law in 2004 also reflected the Hungary's accession to the EU regulating some, previously not covered, technicalities regarding the EU citizens as clients and administrative cooperation with other EU countries.

A permanent feature of the law since 1957 until nowadays is that it provides general rules in administrative adjudication and legal procedures. This method, that is quite typical in the European continent, usually sets up general rules or rather principles (like in most Scandinavian countries). The Hungarian law, however, is very detailed well over two thousand subparagraphs (about 60 thousand words). This design supposed to provide citizens with overall guarantees and an easy-access source of their legal rights in this regard. However, exactly because of the high level of detail in the general law, there is an enormous number of specific rules in specific fields of procedures from issuing construction permits to tax rules, or competition controlling activities. For instance, if the Act specifies general deadline (30 days) to finish administrative procedures, there must be exemptions on such fields where the complexity of the issue and/or the required process (e.g. the cooperation of several other administrative units is needed) cannot be finished within the given deadline. As Fazekas (2007: 36) notes only about 5% of all procedures are based solely on the general procedures regulation. In this regard, the Act does not really serve as an information source of client guarantees.

The Act also provided a high level of guaranties against administrative arbitrariness, unfair, and unlawful procedures. Some of these guaranties seemed to jeopardize the operations and the enforcement of laws, as Gajduschek (2015b) empirically proves it.<sup>32</sup>

32 For instance, it seemed practically impossible to demolish illegally built buildings for there are so



The Act 140/2004 opened the opportunity for the interested parties to step into the process as clients (class action). This is most typical in case of larger construction works if the neighborhood resist the change or in the field of environmental protection. It seems that this type of rights has been largely curtailed after 2010. The Act 140/2004 contained several rules allowing the use of ICT in client-administration relationship. However, most of these rules were terminated before the Act got into power in 2005 as the technical basis did not exist. Most of these rules were reinstated in 2012 with the establishment of necessary capacity in terms of hardware and software. Improvement of electronic government is a top priority of the new government, presumably as an effective instrument of control of lower administrative units and other social entities.

It would be hard to identify the impact of any specific reform movement in this field. European accession undoubtedly generated some minor, rather technical amendments in the law. The impact of e-governance, if that is considered as a reform direction, is clearly visible though.

### 7.2.3. Civil Service Regulation

The civil service system of Hungary has been extensively discussed in the international literature by the Hungarian and foreign authors. Most importantly, Jan Hinrik Meyer-Sahling studied the Hungarian system either in itself or in a comparative context (Meyer-Sahling, 2001, 2006a, 2006b, 2006c, 2008, 2011; Meyer-Sahling & Jáger, 2012). The civil service was a crucial issue in the accession process to the EU that has also generated several research projects (Bossaert & Demmke, 2003; Demmke & Moilanen, 2010). A relatively detailed, descriptive study was published recently addressing both the law and reality in the field of civil service (Gajduschek & Linder, 2014), whereas Linder (2011) analyzed the legal regulation in detail. Shocking similarities between two countries of the region are discussed by Staroňová & Gajduschek (2013). The large number of studies allows us to concentrate specifically on the impact of various reform approaches.

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many guarantees that practically prevent the authorities to carry out their obligation against notorious law-breakers. Similarly, for over a decade, administrative decisions could be implemented only after the judicial process initiated by the client was finished. However, judicial processes, especially if the client is interested in that, may take almost or even more than a decade, even in cases where the administrative process has to be finished in thirty days. This fact made the execution of administrative decisions highly questionable, frequently impossible or simply inadequate.

The Civil Service Act was adopted in 1992 (Act No. 23). This was the first comprehensive regulation in the CEE region. During the communist regime, so-called spoils system was in function. Civil servants were employed according to the Labor Code without any specific regulation to assure that the bureaucracy does not alienate from the masses. Naturally, this system required strict political loyalty even over professionalism. This approach has gradually weakened (Gajduscsek, 2007b), and leading scholars, from the early 1970s proposed an arrangement that was close to the merit system. By 1990, everyone agreed the new merit system law was in a great need. The Act 23/1992 was intended to serve this goal.

However, for various reasons, the real functioning was largely different (Nunberg, Barbone & Derlien 1999; Verheijen & Kotchegura, 1999). In fact, political or even personal loyalty was crucial at least in more important positions (Gajduscsek, 2007c). There seemed to be an honest devotion to build a professional civil service on one hand and, on the other hand, the pressure has been constantly present to infringe this principle in individual cases. Still the quasi-merit nature of the Hungarian civil service gradually became obvious. A comparative OECD study (Meyer-Sahling, 2009c: 37) found that, out of the eight CEE accession countries, Hungary scores the second worse in terms of merit based recruitment (*ib.*: 26, 30), promotion (*ib.*: 36), evaluation (*ib.*: 45), whereas political connections considered the most important for career out of the eight countries. In a concluding diagram the author finds that Hungary fits far worst to the European Principles of Administration (in this case a depoliticized, professional civil service system). Others, based on self-reporting on the authorities of the countries, reach a similar conclusion (Demmke & Moilanen, 2010).

In 2001, among several other amendments, the performance appraisal system was introduced. The system has been applied on all civil servants, carried out by the heads of the administrative units (several of which employed over a hundred civil servants), and resulted in a quite significant (+/-20%, or even more in some time and some cases) wage divergence from the one stipulated by the law. This was clearly an NPM element, though may not be intended as such.

In 2006–2007, a sharp turn was declared in the civil service policy explicitly towards NPM direction. The merit system was criticized for its rigidity, lack of performance orientation, etc., exactly according to the NPM narrative announced by the newly appointed state secretary for CS; coming from the

business sector as an HR manager of a tobacco factory before. He increased the role of performance appraisal and performance bonus that could be as high as 50% of the normal salary. Other major changes were also introduced which, however – presumably unintendedly, or even against the conscious will of the designer – strengthened the merit elements of the system. Most importantly, a new central HR unit was established that – as originally was planned – would have carried out the HR activities for all the ministries. It was only during this short period that vacant civil service positions had to be widely announced, and – most importantly – a systematic selection procedure for new appointees was set up, including a generally obligatory and relatively difficult entry exam and a systematic selection based, at least partly, on the central HR unit. Before and after this period, the appointment of a new civil servant has been largely the arbitrary decision of the head of the administrative unit. The reform attempt failed within a few years, the ministries blocked some reforms and all major reforms were reversed by the new Cabinet in 2010.

After 2010, as the Orbán's Cabinet got into power, a new era started in the civil service as well. A large portion of managers was replaced by new loyal persons. In the senior civil service, hardly anyone remained in position. The Orbán's Cabinet made it quite explicit that unconditional loyalty is required, and rewards and sanctions are dependent almost solely on this factor – somewhat similarly to the socialist era. A new Civil Service Act was adopted (199/2011) after a short period of making several major amendments on the existing law. The Act sharply differentiates between civil servants of the central government and that of the municipalities. Civil servants may be dismissed with only a two months' notice with *area son* – for instance – of the “loss of the superior's confidence”, which in fact makes firing of a civil servants easier than non-professionals at a company. The above-mentioned arrangement that the political Head of County Government Offices where the majority of civil servants work has a veto power on appointments of civil servants, thus builds political criteria openly into the civil service regulation.

Meanwhile, the analyzed period has been scattered by regular, though always unexpected initiatives to cut back the number of civil servants by 10–30+% within a few months after the initiation was announced. At least five such radical political attempts have been launched in this period.<sup>33</sup> The

33 The last one, announced only a few month before this chapter is closed, targeted 150,000 people

experience tends to show that the real decrease is well below the planned proportion and – more importantly – the number of civil servants grew to the original volume or even above (Gajduschek, 2008c: 112–114). These types of cuts obviously would be impossible in a merit system.

In brief, the Hungarian civil service was hoped to follow the merit system ideal of the classical Weberian bureaucracy. However, this has never been achieved. Politicization has been present from the beginning of the transition and it has continuously increased<sup>34</sup>. Major elements of a merit system were attempted to be introduced during the reform program that aimed at exactly opposite – NPM-like ideals. After 2010, the new government reconciled law and reality as the law openly and effectively breaks up with the depoliticized merit ideal and allows direct political interference with civil service. In that regard, again, the Orbán's government seem to be closest to the socialist model.

### 7.3. Public Administration – Scholarly Debates over Models

In this chapter, we attempt to answer to what extent the Hungarian scholars of various disciplinary origin address PAR generally, and various approaches to administration and reform-models (as identified to what extent in the first chapter of this analysis, and some other reform approaches) are presented.

#### 7.3.1. Materials and Methods

In order to attain the objectives set out above, we reviewed four major Hungarian journals, which may deal with PA from different perspectives. The main criteria of the selection was permanency (i.e. the journals have to publish on a regular basis, but at least four times a year, and be present in the analyzed period<sup>35</sup>), relevance (cover the temporal focus of examining), and evident reputation (scientific level and general acceptance in academic circles). We also

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from the civil service, which amounted at that time around 114,000 indicating that the decision-makers – presumably – cannot differentiate between 'civil servants' and 'government-paid employees' that may be around 800.000 (still indicating approx. 15% cut in a few month period). Retrieved from: <http://www.origo.hu/itthon/20160128-csepreghy-nandor-allamigazgatas-kozigazgatas-leepites.html> (Downloaded: 29.5.2016)

- 34 One may reasonably, but wrongly, expect that the large change took place when the first democratically elected government got into power in 1990, and exchanged the communist cadre with its own people but then political appointments gradually ceased to exist. The opposite has been true.
- 35 Important journals that were published only in a shorter period are thus omitted.

attempted to find periodicals representing various research fields relevant to PA. Based on these requirements the scrutinized journals are:

- *Magyar Közigazgatás* [Hungarian Public Administration, HPA], the best known and, according to the editorial preface, the most respected journal of administrative sciences in Hungary that has a long history. It has gone through numerous changes (in line with the prevailing regimes) from the 1884's first volume to the recent volume in 2016; now HPA has kept almost nothing from its original form, even its title has changed in 1990 from *Állam és Igazgatás* [State and Administration], and in 2006 to *Új Magyar Közigazgatás* [New Hungarian Public Administration]. For many years publishing of HPA was supported by different ministries, currently it is funded by an international company engaged in scientific publishing. Initially, for more than a century the journal was released monthly, but after being suspended for almost two year between 2007–2008<sup>36</sup>, from 2014 it is published in a quarterly format.
- *Közgazdasági Szemle* [Economics Review, ER] firstly published in 1876, originally in German language during the years of the Austro-Hungarian Monarchy. It is funded by the Hungarian Academy of Sciences (hereinafter: HAS), its principles of editing state that ER is mainly a theoretical journal in the area of economic sciences. The journal is published 11 times a year.
- *Politikatudományi Szemle* [Political Science Review, PSR] was founded in 1992 by the Political Science Association and the Institute of Political Sciences of HAS. PSR is publishing the studies from all fields of political science if those comply with the requirements expected of scientific publications, and contain original theoretical and empirical research. Since its release, the first volume of the journal has not changed much, apart from the alteration of formal properties. It is published PSR quarterly.
- *Jogtudományi Közlöny* [Jurisprudential Bulletin, JB] published as a journal of the HAS Government and Legal Studies Committee, is a forum for both basic and applied researches. JB has a long tradition (its

36 As – naturally – this journal has published most of the relevant articles, this interim period can be seen quite well in the figures.

first volume was released in 1866) and good reputation among legal scholars, at all times, the most respected personalities are among Hungarian legal its editors. Over the last decades, the journal is generally published on a monthly basis.

The reviewed period covers 27 years from the beginning of transition in CEE countries until very recently (1988–2015). Not all items published in these periodicals were analyzed. We excluded a large number of research material, such as historical overviews or reports of already implemented changes in PA, foreign examples if they do not have expressed domestic conclusions, and quasi ‘case studies’, or private specific experiences without generalizable consequence. We excluded also ‘in honorems’, introductory essays, published laws, etc.

As a next step, we looked through the titles and abstracts to search for related content to PAR or any other reform-models. If a potentially relevant paper was identified, the entire paper was read looking for the relevant parts. For this exercise a more detailed and operationalized definition of the categories, especially the five models was used. Thus the used categories are: Socialist or Communist, Classic Weberian State (as corresponding to bureaucratic administration), New Public Management, New Public Governance or Good Governance, and Neo-Weberian State. Additionally to these models, further categories were introduced to identify specific but relevant reform approaches. Europeanization (containing all issues related to the European Union, e.g. membership, requirements, and accession preparation, etc.), e-government (everything is heading to the e-state, and ICT in PA), and legal solutions<sup>37</sup>. In addition to the specific models, it was also reasonable to add an ‘other’ category for the purposes of classifying the relevant but non-classifiable (value-free) contents.

The majority of papers dealt only partly (sometimes only to a small extent) with PAR. We classified papers on a 1-4 scale regarding overall relevance for PAR. Furthermore, we assessed the percentage devoted to a certain model in the given paper as – naturally – several papers addressed more than one reform-models. All these findings regarding any paper that had some relevance to our research was entered into a database which aggregated data presented

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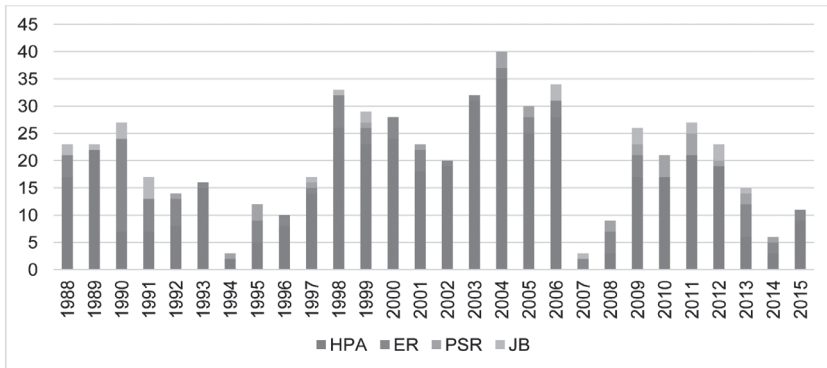
37 For some reasons, due to the traditionally legalistic nature (or *Rechtstaat* tradition) of Hungarian public administration and administrative science in particular (Drechsler, 2005a; Gajduschek, 2012; Hajnal, 2013), a major part of the analyzed papers prefer conventional solutions realized by means of law. Consequently, it was appropriate to include this atypical reform category to the others.

below calculated from. Here, for the sake of simplicity, we will provide only a rough overview. For this reason, we take into account if a paper addresses certain or probably more reform-models or not, putting aside how many words were devoted to that model.

### 7.3.2. Overview

The outputs, in fact, came from four disciplines: administrative, political, legal, and economic sciences, each of which is represented by a journal. All of them are published in a (roughly) permanent basis during the concerned period, relevant to the examination, and have a considerable reputation. We found 572 articles as a result of the reviewed 7,998 articles. In fact, came from. Consequently, the average hit rate is 7.15%, in other words, on average every 14<sup>th</sup> article dealt with PAR, but the intensity of occurrences is varied, and different periods can be identified in it. This is exactly what Figure 7.4 illustrates below.

Figure 7.4: Reform-based Articles in the Journals



Source: own compilation.

At first glance, it may seem that in each analyzed year most of the relevant articles were published in Hungarian Public Administration. Indeed, 429 of articles in total are about three quarters of the total amount. Political Science Review and Jurisprudential Bulletin come second with 87 pieces, followed by the Economic Review with almost equal 29 papers (value 27). Please note that HPA's publishing was suspended in 2007, and only two issues were published in 2008.

We can see some clearly visible waves from the graph. It seems that, with some important exceptions, the interest in PAR, in most election years significantly drops (1994, 2002, 2014 seem such years). The first years after the transition are seemingly below the years before the transition took place. Furthermore, there is a relative peak in papers on PAR in the period of 1998–2006 that was described, from most findings, as the period of consolidation. The ‘political governance’ of the second and third Orbán’s governments may have discouraged scholars to deal with the administrative reform as these professional-administrative issues may have seemed highly irrelevant. In all the three presumed regularities the explanation may be that the technical questions of administrative functioning became less relevant if large-scale political issues dominated the given period.

It also shows us how the four periodicals representing four disciplinary fields appear in the investigated period. The economics approach seems to be quite strong in the first few years of transition probably because of the enormous changes in the economic system that was strongly related, in several ways, with the government functioning. The legal approach seems relatively modest, presumably as the HPA is full of administrative law papers, and thus it is considered as the journal publishing administrative law papers. A plausible statement may be that the more general legal approach becomes stronger when the rule of law became an issue in the early years of transition, the sharp decrease of the governing coalition’s popularity between 2006–2009, and the two-thirds government after 2010.

### 7.3.3. On Various Models of PAR

The nine approaches that we analyzed in scholarly papers altogether appeared in a very different frequency as it is shown in Table 7.2. Papers that are encoded as “legal approach” are the ones that most frequently address PAR (note that this is largely because the legalistic nature is far most prevalent generally in PA). The “others” category, includes papers legalistic nature addressing the issue of PA in a more general context, e.g. organizational studies and change, overall governmental category, includes and its change, social environment of administration, etc., that could not fit to any of the above categories. The EU accession and the requirements for administrative



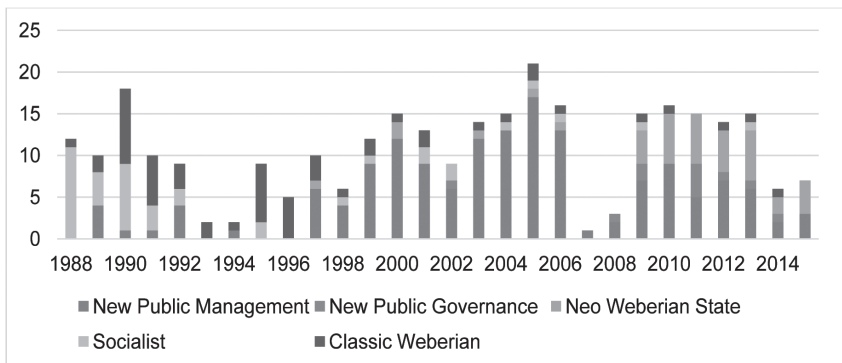
change were widely discussed especially around the accession in 2004, whereas the e-government was a relatively stable though not widely discussed topic, which became more characteristic in the past decade. Regarding the five models, and especially the three reform-models, it is clear that NPM is far the most dominant, whereas NPG is hardly discussed, and even those cases are of questionable character.

**Table 7.2:** Appearance of the Nine Approaches

Model / approach	Number of appearances
New Public Management (NPM)	154
New Public Governance (NPG)	11
Neo-Weberian State (NWS)	39
EU-ization	63
E-government	51
Socialist	41
Classic Weberian	55
Legal	176
Other	156

Nevertheless, let us proceed to the trajectory of these approaches. Figure 7.5 shows only the distribution of the five major models discussed at the beginning of this chapter.

**Figure 7.5:** Aggregated Distribution of Models



The early years of transition were characterized by the intensive discussion of the socialist system, and then the Weberian bureaucratic arrangement. From the second half of the 1990s, NPM seemed to dominate scholarly discussion reaching its peak in the mid-2000s. Indeed, NPM is present to the highest quantity but also most continuously, i.e. NPM is the only reform-model which can be found in most analyzed years, while other approaches occur only in certain periods. The categorization, as we indicated at the beginning of the chapter, is based on the content of the model. This is the reason why some publications were categorized as NWS even before the term was coined. However, NWS became relatively important only from 2009, and especially after the Orbán's government got into power, as NWS refers in this terminology to etatism, anti-liberal, anti-NPM sentiments as well as to centralization with a strict hierarchy and the smallest possible level of autonomies. NPG or Good Governance is discussed somewhat more intensively only in the past few years as the very term was used both by the left and right wing parties. The Orbán's government even initiated a large-scale program (Magyary program) devoted to the creation of "Good Government", whatever it may mean in that context. Most items categorized as NPG may have been written in that vein while referred to the original model (Hajnal-Pál, 2013).

An in-depth analysis of the content reveals some further findings. In the first period, the authors planned to implement the recommended reforms within the socialist framework. This is demonstrated by title selection of this era: 'Solution of Organizational Decentralization: The Small State Businesses' (Laky, 1988), 'Financial Innovation in Market Socialism' (Liska, 1988). When the transition started, the articles took a new direction: since then the reforms had already incurred a deeper intent of change in the articles. Once again, just based on the titles: 'Limited Company and Reform' (Hoch, 1990), 'The New Model of Corporate Ownership' (Sebestyén, 1990), 'The Foundations of Constitutional System of Local Governments and Directions of Development' (Verebélyi, 1989). From this time forth, the articles contained more and more intensively the issues related to the changes of PA. During this period, HPA has also released several special thematic issues on PAR (e.g. 1993/11 in connection with the intended revision of the new Local Government Act).

The next major change dated around the year 2000 when the papers related to the EU accession started to occur in a larger number. According to the

foreword of HPA in January 2000, the journal aims to provide (more) space in the future to the publications related to modernization of PA and preparation for the EU accession.

The third and recent large change may have been provoked by the 2010 parliamentary elections. Due to the results, the election-winning party gained a two-thirds majority, and began to fundamentally transform public-legal framework of the country at a rapid pace. This event seems to restructure the distribution of publications related to PAR in favor of NPG and NWS approaches. Vast majority (more than 70%) of them has been published after 2010. The drop in relevant publications from 2014 occurred because HPA has been released from this date only on a quarterly basis.

In view of the above-described, we can conclude that the previously identified three major breakpoints are related to three major political events: first, the transition in CEE and the newly formed democratic framework which allowed the authors, through ensuring freedom of science, to deal with and publish papers on state affairs; second, after a steady downward trend, consolidation between 1998–2006 (and partly the EU accession) re-launched interest on the subject, in addition the development of PA, at that time, was considered to be of a *wider public interest* due to the involvement of the scientific community; and third, from 2006 and particularly after 2010 once again, there was a drop in publications, and possibly the scholarly interest in PAR.

#### **7.4. Conclusion: Stages and Models in Hungary with Further Considerations**

In this chapter, we attempted to provide a brief summary of PAR and its various segments. In this regard, we followed the Hungarian PA literature, dividing the topic in analytical terms into (a) structure (central and territorial PA organizations), (b) functioning (policy/law making, public service provision, and application of laws), and (c) civil service system. Additionally, we also analyzed the Hungarian scholarly literature on PAR. The description of the trajectory served the purpose of determining major stages in the process as well as assessing the prevalence of various models of public administration. We have predefined three reform-models that were widely discussed in the past decades in the international literature, and two models that served as a kind of ‘starting points’ against which these models may be interpreted – bure-

aucratic PA arrangement in the West and the socialist PA model in our region.

**Regarding the periodicization.** Generally three stages were identified by most reviewed authors. The first period may be titled as the creation and initial consolidation of the new system characterized by a radical shift from the socialist system. On a macro level, this is described by the double transition creating a democratic political system and the system of rule of law on one hand, and a market economy on the other. For the PA this required completely new ways of functioning, characterized most importantly – in our interpretation – by the loss of several administrative tools used before to enforce compliance from social actors. The new methods had to be learnt and that created great difficulties, and at least for this initial period loss in effectiveness, especially in the field of law enforcement. Naturally, this period brought large changes in the organizational structures as well with an increased role of ministries (as the policy making function of the Party apparatus was terminated), creation of a large number of agencies and their territorial units (deconcentrated organs), and perhaps most importantly, establishments of a new highly autonomous self-government system with a wide range of competencies. The second stage, that stems roughly from the mid-1990s to 2006 or rather 2010, may be named as a period of fine-tuning with an increased sense of difficulties inherent in the new system. The scholarly literature devoted most publications specifically to PAR in this period, and relevant, though not enormous, changes took place in various fields during this period. In a more pessimistic interpretation, this period may be described as actors getting accustomed to the positive elements of transition, while new problems occurred but they were not really handled (especially if that required the change of constitutional setting), while disillusionment became widespread among the professional and wider public.

Somewhat strangely the EU accession hardly appeared as an important periodic point, presumably because the Hungarian PA was among the best prepared candidates, working on the accession for about a decade before 2004. Still, the EU induced significant, though somewhat contradicting, changes, especially in public service provision.

From 2010, a completely new PA system has been built in accordance with a larger transition detected in the field of political system, namely the illiberal state and all its attributes and the economy with an increased role of state in

terms of ownership and regulation.

In a more general view, the story of the past 25 years may be described as movements of a pendulum, which started with the sharp, extreme denial of all attributes of the socialist regime. For instance, while the socialist system is characterized by the unity of powers with the primacy of the – communist party led – executive, the new arrangement set up several organizational and legal institutions to control the executive to such an extent that, at some points, it was not able to carry out its key functions (i.e. enforcement of laws). The socialist system prefers centralization and hierarchy; the new system provided a sound autonomy and wide range of competencies for local governments leading to several other administrative autonomies. Illiberal state may be considered as the pendulum swinging back again to the extremes of centralization, hierarchy, party-run administration, and practical elimination of checks and balances that reminds the observer to that of the socialist model.

**What models were followed in the various reform movements?** First of all, we emphasize that we identify certain reform actions with a certain model in an objective manner if the act fits to the attributes of a pre-defined model. In other words, we do not try to answer the question in a strict sense: “What the decision makers had in mind?” for several reasons. Most importantly, because we cannot identify the actors’ real will. This is a general problem of social sciences that is exacerbated in political science where the vested interest of the actors is frequently to hide their real motives. We also detected that, in several cases, the proclaimed reform direction and the factual one may greatly differ even if the actors indeed wanted to follow the given reform agenda. This was most self-evident in case of civil service where performance appraisal (NPM) was introduced in a reform that aimed at reinforcing merit system, whereas the actual functioning was brought closest during this 25-year period to a real merit system as a result of an NPM-oriented PAR project (that otherwise attempts to terminate merit system).

By all means, the fact that the attributes of **NPM** fit to the general tendency of the transition may be the reason that this reform approach seems to be the most relevant not only in the scholarly literature but also in reality. Agencification in central structures and devolution in local ones may be interpreted this way. NPM has also appeared in civil service with the intro-

duction of performance appraisal and as an official ideology of reforms in the period of 2006–2009. Most clearly, however, NPM is manifested in the field of public service provision as several service providers were privatized at first stage as a result of transition, and in the second stage to a great extent induced by the – at that time NPM-oriented – EU regulation.

**The other two reform-models.** New Public Governance (NPG or Good Governance) and Neo-Weberian State (NWS) appear both in practice and in the literature to a much smaller extent; in the literature, frequently, in a quite distorted, misinterpreted way. Some good governance methods, not reviewed here in detail, have appeared at the local level, in self-governmental functioning, most of all by involving local NGOs and civil society organizations in decision-making. However, this remained sporadic. One may argue that the involvement of NGOs in service provision and the sector-neutral financing that enabled this arrangement may be considered as NPG, even though most authors would categorize that under NPM. Furthermore, some units that existed at the territorial level (e.g. Regional Development and Labor Councils) that broke up with the classical bureaucratic administrative model, and seemed to be more open to the cooperation with non-state actors may be considered as manifestations of NPG approach. The relatively small weight of these organizations and their short life, however, indicate the bad fate of this reform-model based on participation, cooperation and consensus-seeking, generally time-consuming procedures with less predictable outcomes, irrespective of long-run positive effects of this arrangement.

The Hungarian literature seems to largely misinterpret the meaning of this model as well as that of NWS. In fact, while NWS may serve well as a descriptive model, it is quite vague and less robust as a normative model (i.e. how a NWS arrangement would look like.) It seems that NWS is rather a quasi-ideology in the region against NPM and intended for bureaucratic arrangements. This is exactly what we see in Drechsler's or Randma-Liiv's quoted papers. In the Hungarian literature a clear, though not necessarily conscious, misinterpretation occurs that identifies NWS with the endeavor of Orban's Cabinet fitting to the illiberal state: etatism, high degree of centralization, and abolition of all kind of autonomies.

**Bureaucracy** in this region appears differently to its interpretation in the West. All the three reform-models are originated from the West, and all

of them are formulated – to larger or smaller extent – against the Weberian bureaucratic model. NPM appeared explicitly as a denial of the bureaucratic administration, most of all its hierarchical arrangements (vs. competition), inward-looking nature (vs. outcome and client orientation), and relative negligence to efficiency and effectiveness. NPG emphasizes transparency, civic participation and informal, non-structured, network-like functioning as opposed to secrecy, administrative professionalism (that excludes dilettante though interested parties from the decision-making and implementation), and strict, pre-defined hierarchy. NWS, while accepting the need for some bureaucratic solutions (vs. NPM), still vows that classical bureaucracy is not anymore feasible. In the CEE region, however, as most agree, classical Weberian bureaucracy would have been a step forward from the socialist model with its politics-run mechanism, systematic lack of professional capacity, and considerations in decision-making and implementation. Though the analysis of publications may be confusing in this regard, the first period (was dominated mostly by the papers reviewing NPM, typically in a positive manner, and condemning classical Weberian model as outdated, sometimes even identified with the socialist past. Later, however, more and more voices articulated the view that classical bureaucracy may have been a stage in development that cannot and/or should not be skipped to jump directly to NPM or other fashionable Western models. This change can be clearly detected in the publications in the region, so much that recently Pollitt and Dan (2013) argue against the view that NPM does not fit to the CEE reality, and classical bureaucracy is needed to be established first – a view that they find dominant in the region.<sup>38</sup>

Marketization sometimes brought to extremes, and privatizing public infrastructures that most of the leading NPM countries kept as government property seemingly failed to fulfill their promises. Prices typically went up as the market mechanism was introduced instead of dropping due to increased efficiency. The customers frequently felt more defenseless facing large multinational companies than earlier with government-run providers. The ideology of the supremacy of market over the state may have been questioned

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38 The fact that they assessed the general mood well is reinforced by the immediate reaction by Drechsler and Randma-Liiv (2015), who harshly criticized the proposed finding that “NPM can work” in the region.

by the fact that large part of the public infrastructure was privatized to Western government-owned companies. Generally, NPM, a pro-market approach, was surely difficult to be mentally handled by a population socialized during the socialist regime. Furthermore, NPM was intensively advocated, frequently forced by the international organizations, most of all IMF, World Bank, and OECD in the first one or two decades, despite the increasingly clear negative effects. This raised suspicion if that endeavor served other purposes than the well-being of the countries (Stiglitz, 2002). In this way, NPM may generally exacerbate alienation from the transition which may be a mental basis of the illiberal turn.

NPG is also originated from the West. It is based on such structural and cultural conditions that are hardly present in most countries of the region; surely not in Hungary. NPG may function well if all major social groups can articulate their views, if they are relatively well organized, or at least able to organize themselves. The Hungarian society hardly meets these requirements. Large social groups are unable to voice their views and needs. For instance, the Roma (about 10% of the population) have no effective representation neither at the central nor at the local level. The same is the case with the unemployed people. The unionization may be – according to our surveys – about 1-2%. Even local governments were unable to form a unified, and thus powerful association. Besides interest articulation, interest aggregation is a key in NPG. However, though this is difficult to empirically capture, the mental disposition for consensus seeking is very low. The debates are highly personalized (vs. issue-oriented) and conceived as a zero sum game that hardly allows mutually satisfying solutions.

In brief, most models coming from the West have been attractive and, at the same time, inappropriate presumably for the same reason: being Western. The tension between rather Eastern reality and Western ambitions are not new in the region (Szűcs, 1983), and may be captured in the PA system as well. The tension between foreign ideals and local realities became more self-evident as the ideals originated this time from the Anglo-American administration that was different not only from the reality but also from the historical ideals of Germany and France in this region. Furthermore, ideals and models offered by the West sharply contradicted one another, exacerbating confusion and leading to the cacophony of PAR. By analyzing



the administrative reforms in a systematic manner, most authors concluded that no clear models can be identified during the past 25 years, or shorter periods within this time span (Rosta, 2015). However, in a recent study investigating the nature of sub-national level PAR in Hungary Hajnal and Rosta (2016) find that the reforms since 2010, while diverging from or even contradict the three analyzed models (NPM, NPG and NWS), seem to form a specific, consistent model. This model, that they call ‘illiberal’, is characterized by “radical rolling back of the market [...], harsh downplaying of network-type coordination instruments, and degradation of rule of law” (ib.: 19). To these rather general governmental attributes, we added in this chapter some more PA-specific elements, most importantly: (a) elimination of checks and balances, especially checks of the executive; (b) centralization, purely hierarchical coordination, and denial of autonomies; and (c) politically, party-driven PA (vs. professional administration). Regarding the potential cause, the authors presume that “Western values of liberal democratic governance constitute some sort of an unintended error or an inability of the central power to exert control” (ib.: 19), which may have instigated the establishment of the illiberal state.

Based on all the above, now, as an ultimate conclusion we attempt to answer the questions raised by the editors of this book.

1. It seems that *for a long* period of *time* there was not an administrative reform-model specific to the region or Hungary. Instead, a cacophony of reform directions may be detected. Most of these reforms were based on Western, typically Anglo-Saxon, theories contradicting one another and, more importantly, the reality of transitional Hungary. However, from 2010, a new governmental and, as its part, PAR model may have been gradually formed. This model seems to be consistent, feasible, and adequate to Hungary and/or to the region as similar tendencies may be identified in some other countries (e.g. Poland). This specific model, however, is based on the denial of Western, liberal democratic governance and administration both in terms of its ideology and its practical solutions. In a brief and somewhat subjective manner: recently, Hungary has seemingly a country/region-specific PA model, though we are not necessarily proud of it.

2. Post-socialist transition narrative plays only ideological, propagandistic role, whereas an in-depth analysis of socialist and transition governance is seemingly missing. As we already indicated, harsh anti-communist propaganda of the Orbán's regime is accompanied with a governmental and administrative system resembling, in several elements, the socialist PA model.
3. Europeanization has played only a minimal role in the Hungarian administrative reforms trajectory. The EU sets up general and vague requirements regarding the administration that has not generated a challenge, especially as Hungary may have been one of the best-prepared accession countries in 2004.
4. 'Implementation gaps' in the PAR have been present at least before 2010. We identified three major causes. First, the contradicting nature of reform-models may have prevented the implementation of any consistent strategic reform. This was exacerbated by the fact that various political actors followed various models, thus one got to power, and frequently annulled actions of the previous PAR before it could have been accomplished. Second, the necessary capacity to carefully design a reform strategy, prepare a feasible operational plan, and carry out activities is largely missing. Furthermore, the time span is too short for implementing such projects. Third, as most analyst mention, the necessary political support is usually missing behind PAR project.

PAR is rather a technical activity that does not yield many votes, especially not in a culture where symbolic actions are preferred over factual ones. PAR of the recent Orbán's government is an exception in this regard as well as it was mostly implemented.

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## 8. Slovene Public Administration Reform: Europeanization as a Bridge over Traditional and Post-Socialist Legacies<sup>39</sup>

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*Polonca Kovač, Primož Pevcin*

### 8.1. Introductory Characteristics of Slovenia and Its Public Administration

Slovenia is a nation state, a parliamentary democratic republic, independent since 1991 with approx. 2 million population. It has about 20,000 km<sup>2</sup>, and lies between the Alps, Adria and Pannonian Basin; its neighboring countries are Austria, Hungary, Croatia, and Italy. Today, Slovenia is mostly secularized with acknowledged heritage of mainly Catholic Church. The country's official language is Slovenian or Slovene. As an independent state, Slovenia aimed at building a democratic society founded on market mechanisms. Slovenia is a full member of the EU since 2004, applies euro as a currency since 2007, and a member of the United Nations (1992), Council of Europe (1994), NATO (2004), and OECD (2010).

Slovenia has been most often, especially before the economic crisis in the late 2000's, considered as one of the most successful post-socialist or Central and Eastern European states that introduced the reforms in society, economy and public administration as well. It gained its independence after struggles within the former Yugoslavia leading to a break-up in 1991.

As within the Yugoslav experience between 1918–1941 (i.e. State of Slovenes, Croats and Serbs, later Kingdom of Serbs, Croats and Slovenes, renamed in Kingdom of Yugoslavia in 1929), and 1945–1991 in “new” or “second” Yugoslavia, Slovenia has been a part of other state structures throughout the centuries before that.<sup>40</sup> Yugoslavia was under Tito one of

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40 Other Eastern European countries have gained their independence at least in a certain limited period or formally if not in a full meaning. This is not the case for Slovenia unless

the few countries in the socialist bloc as a socialist or communist mono-party state but not a part of the Warsaw Pact, and hence not under the Soviet governance. Technically, the politico-economic system of the country, although it was socialistic in its fundamentals, differentiated substantially from the Soviet type, still it needs to be recognized that a uniform “Soviet type” of politico-economic system did not exist, and consequently, many political and economic differences existed even among the “Soviet-umbrella” countries (Šušteršič, 2003). Basically, the system in Yugoslavia was, in politico-economic terms, much more liberalized and pro-market oriented from the 1960’s onwards in comparison to other socialist countries, and the system was eventually transformed towards labor self-management rather than state socialism. Nonetheless, the common point with other former socialist countries was observed in the debt crisis of the 1980’s that was fueled by the growing need to stabilize the economy given the poor dynamic properties of socialist politico-economic systems as well as by the incentives of Western countries to use indebtedness as a tool to boost reforms in the socialist countries.

Slovenia has therefore been developed until WW II predominantly under German and Austrian continental or Central Europe societal, political-administrative, and legal culture. This legacy has been upgraded by socialist system in Yugoslavia, expressing a capture of the state over society. PA in this respect had been seen as a purely instrumental structure for executing politically set priorities of national policies within the socialist system. From this standing point, Slovenia underwent major development rather fast in few years after its independence (see Pirnat, 1993; Dujčić, 1997; Kovač & Virant, 2011). However, such a legacy has had and still does influence public administration (PA) functioning and its reforms (PAR) since their

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taken into account the “first Slovene state”, i.e. Duchy of Carantania in the 7th century, annexed to Bavaria in the 8th century. After a split with the former Yugoslavia, the following countries have been established as recognized today: Slovenia, Croatia, Serbia, Bosnia and Herzegovina, Montenegro, Macedonia, and Kosovo. However, already in 1974, the Yugoslav Constitution gave increased autonomy to these federal units, providing a legal basis for independence of the federative constituents after 1991. Except Slovenia and Croatia with Habsburg heritage, the former even more as a part of Cisleithania, other former Yugoslav states shared mainly Ottoman influence. If comparing Slovenia to Croatia, there was only so-called ten days’ war in Slovenia in 1991 while the war have gone on in Croatia for several years, heavily blocking the processes of modernization.

starting point anticipates a state that dominates a society with PA being understood primarily through government policies and public law. The main characteristic of this system are: rule of law and *Rechtsstaat*, division of powers, division of public and private law and judiciary, and (lately neo-) liberalism (cf. Fink Hafner & Lajh, 2003; Statskontoret, 2005: 74–76; Peters & Pierre, 2005: 267 *et seq.*; cf. Raadschelders, 2011: 156–181; Koprić, 2011 and 2012). In this respect, the European Administrative Space and its principles played a significant role in Slovene PAR as well (OECD, 1999; Olsen, 2003; Kovač & Virant, 2011: 35; Petelin, 2013). PAR was a more or less systematic set of strategies and activities, which thus differs Slovenia to majority of CEE countries with overproduction or vagueness of different measures (cf. Dunn et al., 2006; Koprić, 2012; Vintar et al., 2013; Aristovnik et al., 2016).

From economic perspective, Slovenia is one of the most successful countries in the group of Central and Eastern European (CEE) countries. It has now predominantly services-oriented economy, reflecting the shift from manufacturing orientation. However, the economy is rather small (around 186,500 registered companies) and export-oriented (Germany being Slovene first trading partner, over 2/3 of goods are traded with Germany). That leads, with some ups and rather severe downs due to global financial crisis, to approx. 18,100 EUR of gross domestic product (GDP) per capita in Slovenia in 2014, i.e. 83% of EU28 average, and 9% of unemployment in 2015 based on the ILO methodology. Public finances have shown fiscal deficit problems in recent years as government spending increased during the last years to around 50% of GDP. Consequently, this has led to a mounting problem of government indebtedness, rapidly skyrocketing from slightly more than 20% of GDP in 2008 to almost 100% of GDP in 2016, according to the latest OECD (2016) data. Approx. 160,000 persons, i.e. 15% of overall active population, are employed in public sector, i.e. state administration and municipalities, police, public education, and health care institutions, etc., whereas state sector employs approx. 240,000 persons.

After its independence in 1991, Slovenia has submitted its public administration mainly to the state government. Its origins and connections stem from former Yugoslavia and Eastern European countries. The transition of Slovene public administration from the previous Yugoslav setting saw no major obstacle since Slovenia had been relatively autonomous republic sin-



ce the mid-1970's. Following independence in 1991, however, certain new structures had to be developed, such as new custom service and the overall modernization of local self-government, whereby in accordance with the Constitution of 1991 the functions of municipalities (now 212 of them) were separated from those of state administration at the local level. In the next PAR stage after 1996, the emphasis was on the preparation and adoption of new laws aimed at Slovenia's accession to the EU. In the years after 2000, the reform was intended to consist of constant modernization based on several pillars such as rationalization of structures aiming to decrease the share of public expenditure in GDP, reorganization of specific administrative bodies, and introduction of a new common and unified wage system in the public sector.

The structure of PA in Slovenia reflects its smallness, duality between the state and local self-government, and slow process of delegation of powers from central PA. PA is defined mainly functionally by conducting public tasks, both authoritative and public service tasks through:

- State administration with ministries (around 11 to 15) and government offices (10), agencies within ministries (approx. 45), and local administrative units (58), together totaling to slightly more than 30,000 employees;
- Local self-government within 212 municipalities with nearly 5,000 employees;
- A few hundreds of legally autonomous entities in the form of public institutes, agencies, and funds, such as institutes for social insurances, regulators of energy, telecommunications, market security, schools and hospitals, etc., employing approx. 120,000 employees, taking into account that these entities are part of public administration/sector when conducting public tasks and/or funded at least partially through budgetarian resources;
- Private bearers of public authority or providers of public services (through concessions) that had been delegated certain powers by the state or the municipalities.

Regarding PAR, an important stage was the establishment of autonomous Ministry of Public Administration in 2004 that has acted as a governmental and broader PAR coordinator since then.

In Slovenia, three main processes can thus be identified throughout the reform: (1) modernization in terms of political interests and, in substantive and technical terms, informatization, and (2) Europeanization (see in detail in Kovač in Vintar, 2013; Aristovnik et al., 2016). The latter is sometimes seen as “false Europeanization” since the reforms were taken as a formal requirement of the EU (see Koprić, 2012). However, in Slovene case, it was proved that it acted as a valuable external incentive to support domestic changes. Slovene administrative reforms can be categorized under several targets: the prevailing rationalization and wish for a greater efficiency (minimization) on the one hand, and the confirmation of the existing regulation (maintenance) on the other, which we can join up into omnipresent modernization processes. Politically speaking, the reforms of public administration were thus one of the most important projects of Slovenia. Finally, (3) process that shaped the reform were the emerging and, later on accumulated, fiscal crisis issues and problems since the early 2010’s onwards, which significantly shaped governance mechanisms and decision-making processes in the recent years – an issue that is further addressed in the paper. Nevertheless, there is still a need and possibility for developing good governance and good administration in terms of a modern European system, simultaneously enabling efficiency and democratization of political-administrative structures.

Furthermore, the paper has a standardized structure consisting of two parts, whereas the second part represents its main part. Thus, it is subdivided into four parts, the first one representing changing paradigms and strategies in public administration reforms initiated and/or implemented in the country, the second part representing organizational, functional, and financial dimension of PA, the third part elaborating on the civil system characteristics, and the last one on good administration and good governance issues. Taking comparative perspective, this chapter focuses on country-specific issues of PAR, and in this context, special focus is also given to the role of recent fiscal crisis in implementing reforms, as hence Slovenia was one of the most fiscally challenged countries in Europe, where the fiscal challenges of the country more resembled the problems of Mediterranean and peripheral European countries rather than former socialist countries. This represents a rather interesting dimension to assess and compare PA and its reforms.

## 8.2. Mainstream PAR in Slovenia 1991–2016

### 8.2.1. Paradigms Shift in National Strategies on PAR in Slovenia

In general, within PAR processes Slovenia undertook the path of revolution (1990–1994), transition (1995–1997), and EU accession and integration (1996–2004), further continuous modernization of political-administrative system through specific policies (2003–2008), and adjustments to cope with the economic crisis (2008–2015; similarly to other countries in the region; see Lane, 1995; Cardona & Freibert, 2007; Koprić, 2011; Agh, 2013). The reforms have been designed through several governmental strategies in a rather neo-liberalistic fashion under the New Public Management elements. Simultaneously, PAR has been carried out rather legalistically despite pursuing some good governance principles (e.g. customer orientation, or delegation of powers to regulatory agencies; see Kovač & Virant, 2011; cf. Kovač & Gajduschek, 2015: 10–12).

In 2002, Slovenia enacted a package of what is known as the “reform laws”, including the State Administration Act, Civil Servants Act, Public Agencies Act, etc., unifying PA, civil service and pay system in overall public sector. The principles followed in these laws, umbrella strategies and other measures within PAR were: PA depoliticization and professionalization, decentralization and deconcentration, rationalization, citizen orientation. Slovenia had to tackle the issues of apolitical orientation and culture, and develop professional strategic planning, such as public-policy design and participation of and with the citizens (more Kovač in Vintar, 2013; similarly in other EE countries; see Linz & Stepan, 1996; Dunn et al., 2006; Meyer-Sahling, 2009; Koprić, 2011: 14–20).

However, mostly all reforms, legal, managerial, organizational, financial, etc., have been at least at declaratory level run under the umbrella strategies (Table 8.1). On the other hand, almost no evaluations of earlier strategies have been prepared when adopting the next one since they mostly followed explicit political or macroeconomic goal (e.g. cohesion funds accessibility set out in 2015 Strategy, described in detail in Aristovnik et al., 2016).

**Table 8.1:** Strategic Documents on Slovene PAR

Strategy	Year of adoption	Issuer and its political orientation	Period	Realization (authors' evaluation)
Strategy for EU Accession	1996	Parliament (left-wing driven, but based on overall political consensus)	1997–99	Mainly
Umbrella “reform laws” (Civil Servants, State Administration, Agencies, etc.)	2002	Parliament (left wing-driven, but overall political consensus)	2000–03	Almost fully in structural, less in functional parts
Strategy on Further Development of the Slovene Public Sector	2003	Government (left)	2003–05	Mainly, again prevailing in structural aspects
Slovenia's Development Strategy	2004	Governments (left & right)	2005–13	Partly, and rather declaratory
Exit Strategy (from economic crisis)	2010	Government (left)	2010–13	Partly
*Draft – The Origins of Further Development and Organizational and Normative Regulation of the Public Sector	2011*	Government	2011–12	Partly as pursued prior and parallel to it
Changed Jurisdiction of Ministries and Agencies & State Administration Act	2012	Government & Parliament (right wing majority)	2012–	Partly
Strategy of Development of PA	2015	Government (central)	2015–20	/

\* Not adopted due to early parliamentary elections and new (left wing) government appointment in autumn 2011.

In Slovenia, as in the majority of other countries in the region, the overall basis for modern administrative reforms was primarily the paradigm of New Public Management. As time passed by, however, the understanding of NPM as the ultimate stage of development in the sense of a “Neo-Weberian” administration has been widely accepted was overcome throughout the world and in Slovenia (Pollitt & Bouckaert, 2011; Brezovšek, 2009; Kovač & Gaj-

duschek, 2015: 11). Considering the dilemmas expressed especially in CEE (see Randma-Liiv in Pollitt 2008/09: 70–77), Slovenia and its public administration have therefore been facing some general regional CEE problems, such as determining the proper scope of minimal vs. strong state with the level of de/regulation or non/marketization and developing democratic over technocratic values. In sum, among the elements assessed as highly achieved, we can emphasize (cf. Pollitt et al., 2008/09: 15):

- “Weberian” elements: state as the main facilitator of societal problems and highly developed (traditional) principles of administrative law;
- “Neo” elements: a shift from internal self-satisfaction of PA towards citizens’ and business orientation and rationalization of resources through their management.

On the other hand, representative democracy, NGO involvement, development of public service as a system of distinctive status and its professionalism are still to be analyzed and systematically supported.

As in many political systems of the world, yet more often in less consolidated social environments such as post-socialist countries (see Linz & Stephan, 1996; Dunn et al., 2006; Pollitt & Bouckaert, 2011; Vintar et al., 2013), in Slovenia, the reforms were often run merely in relation to a specific area or the priorities of the current government. This is mainly due to the lack of consistent and persistent coordination at the highest strategic level of government in relation to reform goals and activities, which results in opposing measures taken by individual ministries (see examples in Kovač & Virant, 2011). Hence, PAR in Slovenia may – if evaluated top down – well be considered successful in an operational or technical sense (e.g. use of TQM tools, elimination of administrative barriers), and less so in the most conflicting segments of the society, such as development of local government or privatization (see more in Kovač in Vintar, 2013).

Moreover, an important factor shaping public sector governance model in particular context of Slovenia in recent years has been related to the emergence and persistence of fiscal crisis. Governance issues in this specific context relate predominantly to the pre-crisis logic of public governance, where typically increased efficiency of public sector units was advocated, and this should be achieved with decentralization and competition among public sector units (Peters et al., 2011). Following the outline in Peters et al. (2011),

five areas of governance issues should be addressed: path dependence, coordination and coherence, time perspective, centralization, and politicization. Typically, the evidence suggested in Pevcin (2014) reshaped the prevailing governance model in Slovenia by increasing the voters' acceptance of public sector reforms being implemented; it helped boosting the concentration of power within the Ministry of Finance; put pressure on the increased coordination of policies; shifted the political focus towards short-term fixes and quick solutions for existing problems; put additional pressures for centralization within the government; and caused that the politicians favor policies being implemented by the ruling parties' supporters rather than by "neutral" public servants. Similarly, the modes of governance have somehow changed in recent years, involving mainly politicization and coordination of policy-making, but also increased coordination within the public administration has been observed leading to the movement of certain political powers to the center of government. Interestingly, this to a large extent corresponds to the findings portrayed in the comparative literature (see e.g. Cepiku & Bonomi Savignon, 2012).

If we would have to address the future trends in public governance models, it could be quite plausible to state that the mixture of New Public Management and Administrative State methodological principles are expected to be implemented. Governments also promoted several "lean government"-oriented approaches which means that current crisis has actually promoted the introduction of NPM-based reform principles. However, also the opposite direction of influence could be argued, as hard pressures existed towards more centralized governance, which could be particularly observed in the functioning of the executive branch of government. For instance, a strong pressure existed to re-centralize several tendering systems where the main motive was related to achieve greater technical efficiency of the system. Government, supported by the parliament, started to adopt and implement legislation under the rule of urgent procedure, in particular in the year 2012, where greater efficiency of policy-making was seen as the main motive. In fact, it could be argued that government tried to downsize and recentralize the public sector of Slovenia.

These recentralization pressures existed on macro as well as on micro level as there was a tendency to reorganize the sector and institutions within the sector in the manner to ensure efficient work organization through specialization. Contracting out in the public sector was severely limited, in particular in re-

lation to consulting, vocational, and supporting activities. In fact, limitation of contracting out was perceived as one of the easiest way to reduce the operational costs of the sector. This was the cornerstone of the planned reorganization. This supports another argument: the focus was on achieving greater technical efficiency of the sector, whereas allocative efficiency of the sector – favored by NPM ideology – was neglected. Furthermore, both governments have also limited the autonomy of public organizations. This indicates that more centralized and institutionalized modes of functioning of public organizations have been introduced, and governments increased control on those organizations, in particular if the costs were under consideration. Namely, the austerity measures have actually prescribed the ability of public organizations to cover work-related costs of public servants, formulation of employment plans, determination of salaries of public servants, framework for spending resources, etc.

Following, it can be easily argued that one of the major factors shaping the public governance and politico-administrative decision-making model in Slovenia in the future will be fiscal conditions of the country. The start of economic downturn in 2008, with sharp recession in 2009, when gross investments decreased by almost a quarter, net exports by almost a fifth, leading to gross domestic product reduction by almost 8% in real terms (see data by SORS, 2013), was accompanied by a relatively long economic stagnation that ultimately contributed to the worsening of fiscal situation in the country. Subsequently, governmental policies and decision-making started to resemble typical austerity and cutback management practices, particularly in 2012 and 2013. Interestingly, although Vintar et al. (2013) have recognized several potential opportunities for further modernization of public administration in Slovenia, like delegation of administrative tasks to non-classical administrative bodies, and possible further de-politicization of public administration, it might be argued that the outcome of cutback management in government was increased by centralization and politicization of public administration. Moreover, it seems that one of the major threats recognized by Vintar et al. (2013), which is the prevalence of view that government represents actually a burden to society, materialized. Namely, the Table 8.2 below indicates that cutback measures in the main period of austerity were predominantly oriented at expenditure side of government accounts, which suggests that government was perceived as a burden to society, thereby imposing necessity to cut costs.

**Table 8.2:** Cutback Management and Political Decision-Making in Slovenia, 2008–2014

<b>Practice \ Period</b>	<b>2008–2011</b>	<b>2012</b>	<b>2013–2014</b>
Fiscal consolidation overview			
Main category of public finance restoration	Modestly needed	Pre-emptive	Market-pressure based
Main type of fiscal consolidation	Predominantly expenditure-based	Predominantly expenditure-based	Expenditure- and revenue-based
Cutback management practice			
Main types of measures	Relatively small measures	Implementation of across-the-board and efficiency cuts	Imported prioritization of cuts/ consolidation
Prevailing cutback decision-making	Incremental, small and gradual steps, incoherent	Political priority-setting, centralized, systematic	Short-term quick fixes to ease market pressures, drastic decision-making

Source: adapted from Pevcin, 2014.

Furthermore, one of the main disadvantages plaguing Slovenia is the contribution of government and its efficiency to the competitiveness of the national economy. The figures in recent years indicate that the efficiency of government is actually one of the worst components of competitiveness, and in recent years, the ranking of this component dropped from place 38 in 2009 to place 56 in 2014 according to the World Competitiveness Yearbook (2014) where 60 selected countries are scrutinized. This reflects unfavorable development as within this component particularly the public finance (rank 60) and institutional system (rank 54) are perceived to be major relative weaknesses in international comparisons. Specifically, three indicators of governmental efficiency point out negative trends in decision-making patterns as the indicator of governmental policy-making flexibility exhibits rank 57, economic legal and regulatory framework rank 52, and the efficiency of implementation of governmental decisions rank 57. In relation to the Table 8.3 below this indicates that the development of governance and political decision-making seem to be going in the wrong direction if the context of international comparisons is taken into the account.



**Table 8.3:** Selected Indicators of Governmental Efficiency, Values and Ranking in Eastern European Countries

Indicator	Flexibility of governmental policies	Economic legal and regulatory framework	Governmental decision-making efficiency
Slovenia	1.47 (57)	2.79 (52)	2.22 (57)
Estonia	5.47 (17)	5.61 (19)	5.36 (17)
Latvia	4.78 (26)	5.13 (26)	4.42 (28)
Poland	4.77 (27)	5.20 (25)	4.35 (29)
Hungary	3.58 (40)	3.00 (51)	4.32 (30)
Romania	3.56 (42)	3.52 (42)	3.75 (35)
Lithuania	3.41 (43)	4.93 (29)	3.23 (45)
Czech Republic	2.70 (48)	3.52 (43)	2.91 (48)
Slovakia	2.42 (50)	2.69 (54)	3.57 (37)
Bulgaria	1.86 (55)	3.22 (47)	2.11 (58)
Croatia	1.38 (59)	2.31 (57)	2.74 (51)

*Source: World Competitiveness Yearbook, 2014.*

In sum, we can say for Slovenia, that good governance still stands as the declared but not fully realized objective of recent reforms. Moreover, it seems that practical evidence suggests that in recent years, due to predominantly fiscal pressures, a deviation occurred that even hampered the efficient transformation towards better governance. In essence, cutback management principles seem to prevail in recent years where the managerial point of view stresses the necessity of fiscal normalization in order to continue the transformation. Nevertheless, statically, so-called formal democracy (cf. Agh, 2013: 3) with some more in-depth results in certain (technical) areas is in place. In future, we should design reforms particularly addressing openness, participation, and accountability of PA in order to upgrade to a stage of participative democracy in the European sense. An emphasis on the implementation is thus of utmost importance when planning and evaluating legal, managerial, and organizational measures, since – as analyzed in the following chapters – a respective gap to reforms in run insofar is present in Slovenia.

### **8.2.2 .Organization, Decentralization, Funding, and Functions of the PA**

Slovenia is among the group of countries with a relatively large public sector as total general outlays typically range in the last few year from 45% to 50% of GDP, in 2013, they even amounted to more than 60% but this was due to the exceptional transfers delivered to the banking sector (see SORS, 2016). The

majority of outlays are transferred for the social welfare state purposes (almost 20% of GDP), which indicates welfare dimension of the country stated also in the Constitution. Nonetheless, the majority of revenues are generated through taxes, predominantly sales and income taxes, and the growing worry of PA is growing public debt which accumulated to 83% of GDP in 2015, almost relatively quadrupling to 22% in 2008, technically transferring the country from low level of indebtedness to relatively large one in just few years.

Slovenia is also relatively centralized country, both from fiscal as well as organizational tier dimension, which goes in line with the relative size of the country where substantial fragmentation on several tiers of the public administration is not expected. Besides to central government which consists of state government, central government departments, and local administrative units of central government (not to be confused with local self-government), it has only one tier of sub-national government, i.e. municipalities. Slovenia is also heavily centralized in fiscal terms, as approx. 90% of total government outlays are transferred through the central level. This reflects also historical issues as former socialist countries tended to be rather centralized for political and practical purposes. Interestingly, from the local perspective, it is not entirely uniform, what actually labels public sector, public administration, and government encompass, and so specific terminological issues should be taken into account when addressing this topic (see, e.g., Pevcin, 2002 for detailed elaboration on this issue). For instance, according to some local definitions, public administration should encompass all organizations of central government, local self-government as well as public enterprises, but it should not incorporate political system, etc.

For this purpose, when relating to the organization of public administration, we will follow GFSM (2001) approach, and distinguish governmental institutions at the central and sub-national level and public corporations, which will be treated out of this context. Following, at the central level, government has currently 14 ministries, 12 governmental offices, 34 agencies within the ministries, and 30 autonomous agencies (see Government of RS, 2016). At the sub-national level, according to the Constitution, Slovenia is a unitary state with two tiers of sub-national government, i.e. regions and municipalities, but regions were not implemented yet. It should be noted that reforms (as well as discussions on reforms) of public administration are rat-

her intensive also at the local level, where the first major reform occurred in 1994 with the establishment of the first wave of “new” municipalities that started to operate in 1995. The process of formation of new municipalities in the last quarter of century had several waves, the first was the 1994 wave with the establishment of 82 new municipalities, the second one was the 1998 wave with the establishment of 47 new municipalities, 1 additional municipality was established during the 2002 wave, 17 new municipalities during the 2006 wave, and 2 new municipalities were established after the 2011 wave, the last one in 2014 with the decision of Constitutional Court of Slovenia. Evidently, the fragmentation occurred at this tier of government, the trend that was heavily opposite to the prevailing trends in the majority of others either old industrialized or newly transformed countries (see Pevcin, 2014a for detailed discussion on this issue).

Currently, 212 municipalities exist, of which 11 have so-called city status, that need to have, according to the Local Self-Government Act (2007), more than 20,000 residents, at least 15,000 working places, and they should also be in a sense economic, social, and cultural centers of specific “geographical regions”, which means that they should have hospital(s), theatres, at least secondary schools, etc. It is worth nothing that the number of municipalities increased by more than three times in last twenty years, and substantial variations exists in the size, both regarding the spatial size as well as the number of residents. In fact, the data might even indicate that excessive fragmentation occurred as more than half of the total number municipalities have less than 5,000 residents, which is a legally prescribed minimum size of municipality allowed to be established, in fact, legal exemption becomes the rule. The reason for this is related to the fact that many of them tended to be established for political reasons or exceptionality clause on historical, economical, and other reasons (legally justifying the smaller size of particular municipality often used (see Oplotnik & Brezovnik, 2004). Besides, the same authors have also argued that cooperation and cost-sharing between the municipalities is very small since municipalities are not obliged (and consequently no incentives exist) to do that.

The second major reform proposal was related to the establishment of the second tier of local self-government, i.e. regions. Administrative reforms in the 1990’s and the 2000’s also involved pressures to create intermediate tier of government, so-called regions (see Pevcin, 2015, on detailed historical

and technical report on this process). The reforms began in June 2006 when the Constitution of the Republic of Slovenia was amended in order to enable the transfer of responsibilities from central government to the second tier of sub-national government in accordance with the principle of subsidiarity. The main issue under consideration was to fulfil the existing gap between the central government and the very fragmented local level of government, where very small municipalities prevail.

One of the main issues associated with the implementation of regions related to their territorial size and number of residents. Several variants were delivered that involved introduction of 3, 6, 8, 12, and even 14 regions (Plut, 2004). It is worth noting that the models of the introduction of either six or either eight regions were among the most appreciated variants that ought to be introduced, when professional discussions took place. Namely, these two models tried to optimize the combinations of technical and allocative efficiencies, so that the preferences and attachment of residents to a particular region would be met but simultaneously cost inefficiencies would not be too large. Since the first model (three regions) would disregard, at least to some extent, allocative issues, these two models took into the consideration also the necessity to have polycentric model of development, spatial integration, and round up of regions, and thus perceived greater regional affiliation of residents (SVLR, 2012).

The whole issue of regionalization was actually plagued predominantly with the territorial and population size of regions – i.e. the number of regions. There were also two other extremes presented that further fragmented Slovenia at the regional level. Those two proposals involved creating 12 and even 14 regions, and the allocative issues were the main backbone of those proposals. The main considerations within the discussions on the regionalization were related to two opposing views: should regions be the form of voluntary cooperation of municipalities, or should central government impose regions (and municipalities should subsequently find other frameworks for potential cooperation). The political process of establishing regions started in 2006 when constitutional amendments related to the local self-government issues enabled the implementation of the second tier of sub-national government in Slovenia. The main focus was put on further decentralization of the country, and strengthening of the subsidiarity principle when dealing with local issues. The original plan was to adopt all the necessary legislation in 2007,

and establish the regions during the year 2008. Ultimately, they would start to function in January 2009.

From the political stakeholders' point of view, it seemed that only municipalities (and their mayors) were somehow sceptical on the introduction of regions which could be contributed to the possible reduction in their available resources as some of the tasks would be transferred to the regional level (see Bačlija & Brezovšek, 2006). Nonetheless, the existing government tried to push the approval of the Act on Regions to establish 14 regions in the parliament in 2007 but the Act was not approved by the parliament. The process continued in late 2009 but the process terminated in 2010. The Act on Regions was not approved, and effectively this meant that the process of regionalization was over, at least for now. Namely, by 2010, it became evident that country was entering the period of increased fiscal stress, and numerous cutback strategies and measures started to be implemented. Effectively, since 2009 cutback management pushed for an increased centralization of political and public decision-making (see Pevcin, 2014) which turned the focused away from potential decentralization and regionalization of the country.

However, it seems that we might be experiencing bottom-up trends in the form of regionalization as municipalities are establishing so-called joint municipal administration (JMA) bodies, which represent the form of inter-municipal cooperation. Namely, it became evident, not just due to the economic downturn, that especially smaller municipalities are often faced with the problem that they are not large enough, or do not have sufficient resources in order to effectively and efficiently perform their tasks, and organize efficient service delivery. Currently, more than 90% of Slovene municipalities belong to some JMA bodies (Fonda and Žohar, 2015). Interestingly, the creation of JMA bodies could indicate those areas where potential, or better put, necessity for the establishment of regions might be necessary.

Regarding other forms of decentralization, there are:

- a. Territorial and functional deconcentration of state administration, and
- b. Agencification – the latter being the most important regarding the European (and global) trends – usually NPM driven (Peters & Pierre, 2005: 260; Bevir et al., 2011: 256; Verhoest et al., 2012).

Regarding the state administration deconcentration, countries introduce measures on structure rationalization. Such attempts were present in Slovenia

as well, however unsuccessful. Moreover, one often forgets the importance of territorial deconcentration of state administration regarding its close linkage to decentralization of local self-government due to joined PA system in relation to common parties, especially in circumstances of fragmented municipalities as exist in Slovenia. As for Slovenia, we are facing with highly dispersed and uncoordinated structure of state administration. There are 58 local administrative units; in our assessment, 8–12 of them would suffice. The establishment of today's 58 state local administrative units in Slovenia took place in 1995. A simple political transfer of jurisdiction was made, taking into account both the employees and the users, and the then number of municipalities (Kovač & Virant, 2011: 60). For the most part, administrative units are too small for an economical organization of administrative procedures and, precisely because of this, decentralization of decision-making and supervisory functions is not possible at this level (Trpin, 1998: 259). Furthermore, constitutional disputes concerning the competences of municipalities on one hand, and (general) local state units on the other, were unavoidable. But more problematically, we face also other parallel structures organized through sectoral ministries, any of them with different territorial system, such as tax and customs offices, centers of social work, inspectorates, surveying and mapping authorities, social insurances, etc. Therefore, we need to critically assess Slovene PAR in terms of state PA (re)organization since a network has been purely copied from a system before the independence. Due to tradition, the system functions but potentials for a more efficient and responsive organization are left behind.

As for agencies, in terms of executive and more autonomous regulatory ones, Slovenia has been conservative in changes. There is a ratio of 2:1 between executive agencies within ministries and independent public agencies. Comparatively, this is rather positive since other countries often face excessive agencification and all side effects (cf. Verhoest et al., 2012). Several models of autonomous entities have been developed with differing levels of autonomy based on umbrella Public Agencies Act and State Administration Act adopted in 2002. However, it is a benefit that these system laws include agencies within public administration based on their public tasks and public funding.

In Slovenia, the idea of independent administrative institutions or regulatory agencies was closely linked to the privatization of (economic) public services with coordination of general public and private interests. Consequ-

ently, the first agencies that were established in the 1990s were in the field of market security, insurance supervision, energy, telecommunications and postal services, etc. With the establishment of (state) public agencies, certain administrative tasks were delegated from state administration to more flexibly regulated and legally independent entities outside the constitutionally limited administrative bodies within the state itself. The process of agencification in Slovenia has intensified, and is still progressing, especially with regard to the aspects of (personal and financial) autonomy. In 2011, the Government even designed an explicit reform program regarding public agencies, institutions, and funds as a part of the general public sector reform program (more in Kovač in Vintar et al., 2013). However, experts warn against misuse of this form especially in times of crisis (Pirnat, 2010). The delivery of public tasks can become more efficient because they are specialized, oriented to specific areas or sectors, and able to engage specific expertise. On the other hand, there are concerns as to their accountability, transparency, and technocratic risks. As regards agencies as independent regulators, there are frequent complaints about both political or sectoral capture, and characteristic of Eastern Europe as well as constitutional concerns about them breaking the principle of division of powers in a state. In sum, today there are 16 autonomous agencies, although some are not classical regulators, hence this form is not the most suitable. On the contrary, other institutions parallel to agencies might better function as regulators, such as pension institute.

The figures for Slovenia indicate one regulatory agency established in 1994 and five in 2000, 16 in 2010 and 17 in 2012, with two less and one more in 2013. The majority of agencies fall under the scope of the Ministry of Economic Development and Technology (five) and Ministry of Finance (four), some under the Ministry of Infrastructure and some under non-commercial sectors of science, education, culture and health (some agencies fall under the supervision of two field ministries). The number of employees in agencies varies significantly (from 3 to 250; total about 800 in 2014). There are several phases of agencification. After 2000, the (moderate) proliferation of public agencies can be observed in Slovenia as well as in the region. The processes of transition and accession to the EU led to a rapid increase in the number of agencies in CEE in order to implement new or reorganized functions of democratic state, market economy, and EU MS.

**Table 8.4:** Number of (Public) Agencies in Slovenia (Type 2, National level) over Time

Years	No. of new agencies	In total
-2000 (1994-)	1	1
2000-2004	7	8
*2005-2008	3	11
**2009-2012	6	17
2012-2015	-2 (1 new, 1 abolished, 2 merged)	16

\* In 2004, Slovenia entered the EU. \*\* In 2009, financial crisis started to influence public sector funding. *Source: own research.*

In certain elements, Slovene agencies seem to exceed the standardized autonomy required by the OECD if one did not simultaneously identify the implementation gap. Despite overall positive assessment of agencies in Slovenia, there are respective gaps identified particularly regarding managerial (in)efficiency and political (non)accountability as analyzed for all national agencies in 2011-2014, following goals of PAR strategies (Virant & Kovač, 2011: 71-73; Pevcin et al., 2012: 166-172; Koprić et al., 2012/13: 40; Kovač, 2014). There is an especially vivid gap between declared and actual autonomy and professionalism in terms of setting and reaching goals as defined in theory and field legislation. One of the key problems seems also to be the lack of a systematic approach to agencification owing to non-coordinated governmental field policies but the situation is comparatively not problematic, especially following the EU sectoral requirements. In sum, Slovene agencies seem as a reasonable system and one of successful reforms, however, there is a room for improvement regarding more developed professionalism and better accountability of agencies.

### 8.2.3. Civil Service and Integrity System

Main goals, regarding the European Administrative Space harmonization as a base for PAR (see Cardona & Freibert, 2007: 57; OECD, 1999: 21-24, 2014; Olsen, 2003), have been related to professionalism, enhanced capacity and coordination within the civil service system, both generally



and also in Slovenia. A new umbrella Civil Servants Act was adopted in 2002, together with State Administration Act, Wage System in the Public Sector Act, and other systemic reform legislation. Such an approach should enable real change, however, some of these laws entered into force immediately, and some with rather significant delay. Although the Wage System in the Public Sector Act, for instance, had been adopted in 2002, the new system eventually began to apply only in 2008, after six years of negotiations between the government and public-sector trade unions, and was again partly amended in 2010 to reduce public expenditure. Consequently, one can detect several dysfunctions and incompliances among different laws and effects, particularly within parts of public sector that function outside state administration (health, social care, education, etc.). For instance, when renewing the wage system in these sub-systems, their internal systematizations have been firstly redefined in order to enable employees to get higher wages. Or although the Civil Servants Act aimed at apoliticization and higher professionalism, particularly for the highest officials, the law was changed in 2008 to give grounds for political replacement of directors-general and other similar posts without fault-based grounds but purely “inconsistent” with new minister in power in the period of six months.

The focuses of Civil Servants Act in force since 2003 followed the SIGMA recommendations, and built up on a rather stabile civil service as established in former decades (cf. Meyer-Sahling, 2009). Pursuant to the Civil Servants Act, the civil servants or civil-service jobs within the state, municipal, and judicial authorities fall into two major groups (Article 23) – officials and staff positions. These are differentiated according to their respective principal tasks and entry requirements (Articles 78 and 79, such as professional exams – but many of them were abolished in 2008), rights and duties, and HRM mechanisms. The first group consists of officials or positions of officials in five career classes and 16 ranks. For them implementation of the core (mainly authoritative) tasks of administration is reserved, while the second group comprises support staff or support-related jobs where, in addition to simple administrative tasks, it is mainly supportive clerical and technical work that is performed. The number of officials in 2011, according to the ranks and classes, indicated the following structure: in the first class approx. 3,400 officials were employed, in the second 3,600,

in the third 4,000, in the fourth 2,100, and in the fifth 12,000 (Korade Purg in Kovač & Virant, 2011: 119–147). Secondly, there are special rules for managerial officials as opposed to expert ones).

Generally, the law offers grounds for (see Pirnat et al., 2004; Kovač in Vintar, 2013): reorganization of human-resource planning and employment by integration in the budgetary procedure, decentralization of management to the level of individual bodies, greater internal mobility of staff (given that the employer is the same, i.e. the state), setting up top public management as an expert not political force, more objective system of selection, introduction of horizontal training and qualifications at the Administrative Academy under the Ministry of Public Administration, mechanisms to increase flexibility and rationalize operations (project work, reorganization, reassignment), social partnership, etc. Nevertheless, as the most important characteristic of this law and its subsidiary legislation (especially, unified governmental Decree on Internal Organization and Systematization of Work Posts in force since 2003 and Rules on HR Planning in force since 2006), one can emphasize its scope. Namely, the law applies to all employees (except functionaries) in overall state administration, municipal administrations, and all types of public entities, such as agencies, funds, and institutes (e.g. schools, hospitals). This law hence acts as an anti-fragmentation tool joining up civil service as a professional force providing public services, or issuing authoritative decisions regardless of a status of an organizational unit where civil servants are formally employed.

Moreover, the Officials' Council as a hybrid body consisting of 12 members<sup>41</sup> was set up in April 2003 with the primary goal (Pirnat et al., 2004: 418)

41 3 members out of 12 are elected by officials themselves, 3 members are appointed by the President of the Republic from among the experts in the public sector, 2 are appointed by the trade unions of professions in the PA, and 4 members are appointed by the government as a general rule for a period of six years. This is therefore not a governmental body but an independent one aiming to enhance professionalism. See standards: [http://www.mju.gov.si/fileadmin/mju.gov.si/pageuploads/JAVNA\\_UPRAVA/Uradniski\\_svet/STANDARDS\\_OF\\_PROFESSIONAL\\_QUALIFICATIONS\\_2015.pdf](http://www.mju.gov.si/fileadmin/mju.gov.si/pageuploads/JAVNA_UPRAVA/Uradniski_svet/STANDARDS_OF_PROFESSIONAL_QUALIFICATIONS_2015.pdf). A research carried out in 2012 (Kovač & Virant, 2013: 137–158) among the candidates, selected top officials and Ministers as their political superiors revealed an overall efficiency of the Slovene selection scheme in the sense of restricted over-politicization and increased professionalism. Its outcomes lead to the conclusion that the selection system in Slovenia, owing to its two-phase based on strict standards and further political selection, is most adequate in terms of both regulation and practice since it takes into account the twofold role of top officials and civil service or public administration as a whole. But in relation to a higher level of professionalization, the OECD comparative survey (Meyer-Sahling, 2009) underlines the importance of defining top positions in PA as professional positions with only the very highest

of ensuring a professional selection of the highest administrative managers. For the latter the Act provides an open competition, particularly among the highest officials by adopting obligatory special criteria for their selection, combining professional knowledge and managerial competences, and further training and promotion. This applies to the positions specified by Article 60 of the Civil Servants Act, such as directors-general, principals of bodies, and secretaries-general within the ministries, principals of government offices, and principals of administrative units. All together, the Act applies to around 150 official positions. In reality, these intentions have been realized only partially (more in Korade Purg in Kovač & Virant, 2011, and comparatively in Meyer-Sahling, 2009: 21, 33). Despite a strong tradition of apolitical PA, Slovenia regulates its system more openly by replacing certain circles of top officials, i. e. about 50%, hence converging merit and spoil models, which is close to the French and German systems. Namely, most competitions for the highest public management positions took place in the years following parliamentary elections and changes of government. The number of competitions was extremely high in 2005 compared to other years, exceeding the average by 80%; a rise of 45% above the annual average could also be observed in 2009, and similarly in 2013.

The politicization in appointing top officials in Slovenia is hence definitely a (post)socialism relict despite other rather successful reforms within the civil service system. However, politicization in PA is inevitable; administration often interferes with political decision-making and politics (over)influences administrative operations but this leads to several dysfunctions of the

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being political appointments. Also, the Slovene Constitution states in Article 122: "Employment in the state administration is possible only on the basis of an open competition, except in cases provided by law." The competition procedure for the highest officials/managers is initiated by the principal of the future official. Candidates are first assessed in terms of formal requirements (e.g. education, work experience, special certificates); eligible candidates are then invited to appear before the special commission established for each competition separately, and comprising at least one member of the Officials Council, a representative of the state administration and an outside expert. The commission examines the candidates' suitability in accordance with the standards, i.e. in terms of work and leadership experience, professional knowledge in the field covered by the body in which the candidate is applying for the head post, and management and communication skills, whereby candidates are entitled to legal protection. Finally, the politically superior official (as a general rule, the Minister) can take advantage of his political discretion to choose from among suitable candidates the one with whom he wishes to collaborate. The candidate is appointed for a five-year term with possibility of re-appointment.

system – from democratic deficit to unprofessionalism and lower effectiveness (more in Peters & Pierre, 2005; cf. OECD, 1999: 21, on pursuing separation between politics and PA with its merit system) – so there is a search for a balance that still needs to be established in Slovenia in the future.

Overall, the Slovene reform in the field of civil service was mainly regulatory driven with further organizational and managerial measures, e.g. introduction of schemes of job satisfaction or establishment of special Administrative Academy (in 1997) as internal training unit. However, in practice, especially after 2009, the importance of continuing education and in-service training of civil servants has been underrated as proved by several analyses (Korade Purg, Kovač & Virant, 2011; cf. SIGMA Paper, No. 16, 1996). Today, the Academy acts mainly as a mediator between PA and private trainers instead of a policy unit. Consequently, there have been rare systemic initiatives, like development of holistic model of competences in PA in 2008–2011, but later not put in force due to lack of resources to verify these skills and elements. In sum, it is not surprising to find in the 2015–2020 Strategy for Development of PA almost the same goals and activities as known but not realized through earlier strategies since the mid-2000s, for instance professionalism, anti-corruption, decentralization, privatization, rationalization, higher capacity, loyalty, etc. On the other hand, we can claim that for the Slovene system to be transparently regulated, sound grounds for further good governance-oriented principles of development should be offered.

Regarding development of integrity, the Civil Servants Act introduced specific principles to be respected by all servants and officials explicitly. The Act provides ten principles common to all civil servants in the public sector (Articles 7–15a; the principle of prohibition of harassment was added with a subsequent amendment to the Act, and five principles applying to officials performing authoritative tasks in state and municipal bodies (Articles 27–32; the principle of protection of professional interests was deleted with a subsequent amendment to the Act). Moreover, national anti-corruption strategies and bodies have been set up, such as the anti-corruption commission provided by the 2010 Public Sector Integrity Act. The Act binds all public bodies to act transparently and ethically, and provides procedures before the Anti-corruption Commission, if contrary. The law also protects against the whistle blowers. Since, especially officials act as an authority or public service,

their work is guided by public law, including ethical principles. A violation of these is therefore considered unlawful conduct rather than just bad practice – only moral and legal norms together make up the integrity of the official. For example, pursuant to the GAPA, an official who is not impartial may not participate in administrative proceedings since this conduct – i.e. either refusing to recognize rights to a party whom the official is unfavorable to although the party meets the necessary conditions, or by recognizing excessive benefits contrary to regulations and public interest – is unethical as well as unlawful (Kovač, 2012: 29). In this essence, the Officials' Council adopted the Code of Conduct in 2011, in a form of ten guidelines, based on a two-year analysis of existing codes in individual parts of Slovene and other PAs in order to encourage lawfulness and the respect for common good, and regulate the activities of Slovene officials in the European setting. However, not all guidelines can be regulated by the norms, therefore it is rather important for Slovenia also in the future, as emphasized among others by the Strategy until 2020, to develop a doctrine of integrity, and train public servants to express honesty and service-oriented attitudes.

#### **8.2.4. Good Administration: Modernized Administrative Procedures and Transparency**

As in the EU in general, also through PAR in Slovenia, a concept of good administration has been developed (Rusch, 2014; Venice Commission, 2011; Staskontoret, 2005; Kovač & Virant, 2011: 208; cf. Art. 41 on the Right to Good Administration of EU Charter of Fundamental Rights). Even though it may be said for Slovenia that the process has been conducted rather unsystematically and, again, more regulatory-oriented. Slovene General Administrative Procedure Act as an umbrella field law for efficient and democratic procedures was adopted in 1999, and later on was subject to several further amendments. The latter were mainly devoted to removal of administrative barriers under the EU recommendations but the major reform was not introduced insofar contrary to most other countries, in Western as well as in Eastern and Southern Europe (cf. Rusch, 2014: 4; Koprić et al., 2016). However, the GAPA has been recognized as a rather modern law, based on Austrian legacy, in compliance with the European principles and requirements, even though its scope, in Slovenia, is limited to unilateral administrative decision-making. Additionally, the admi-

nistrative judiciary as well has been operating based on the long tradition ever since the creation of the independent state, initially under the general Supreme Court, and since 1998, as a specialized court (Administrative Court of the Republic of Slovenia) enabling better accessibility for the parties and more focus on administrative matters. Although the GAPA was adopted already in 1999, while the related Administrative Dispute Act (ADA), amended Constitutional Court Act, and Tax Procedure Act (TPA; covering the most regulated special proceeding, and among other, also Civil Servants Act adopted in 2002), followed several years later, the remaining corpus of basic legislation concerning administrative procedure in Slovenia is consistent with the provisions of GAPA and its subsequent amendments in terms of Europeanization. Thus, for example, the ADA (applied since 1 January 2007) takes account of the need for prompt finality and enforceability of administrative law relations, and upgrades the GAPA with the principle of two-level decision-making pending finality, thereby limiting the appeal in administrative dispute exclusively for the protection of constitutional rights and freedoms and the establishment of a different state of affairs in court (Article 73 of the ADA). In terms of reasonable time for decision, the provision of the same Act is rather crucial, stating that the appellant may invoke administrative silence regardless of the possible continuous performance of procedural actions before the administrative bodies if within three years no final administrative decision on the merits or no order to suspend the procedure has been issued (Article 28(3) of the ADA). Moreover, the Access to Public Information Act was enacted in Slovenia 2003, even broadening its scope in 2015.

The GAPA and related laws (ADA, TPA) in Slovenia have, however, always been integrated into, or at least mentioned in, the strategic documents concerning reforming public administration issued between 1996 and 2015, yet almost always only on the declaratory level and have never featured as a pillar of development (Kovač & Virant, 2011: 202; Kovač et al., 2012: 57). The greatest emphasis on the significance of administrative procedural law in this context was given by the 1996 Parliamentary Strategy aimed at reforming the Slovene public administration to meet the requirements of EU membership which defined the revision and adoption of the Slovene GAPA as a foundation of the democratic protection of individuals against the possible abuse of power (on the latter aspects see Ziller and Craig in Peters & Pierre, 2005:

261, 271). Subsequently, the reforms mostly involved debureaucratization of regulations, for instance simplified notification or reduced legal remedies. On the contrary, some amendments even increased the level of rights of parties, such as the guarantee of the participation of interested parties, or the increased right of access to one's file and access to public information.

Administrative procedure codification has been characteristic of the current Slovene territory since 1923 with a common heritage of Austrian law of 1925, old Yugoslav law of 1930, and Yugoslav GAPA of 1956. However, no radical improvement was introduced comparing present law to these, except some minor simplifications. One of the reasons for this is also a successful realization of several organizational measures over the last 15 years with no re-regulation required to comply with the EU standards, such as data exchange within public databases, a one-stop-shop in some fields or developed e-government (more in Aristovnik et al., 2016: 93, 111 et seq.). The degree of protection of the parties' rights has been traditionally high in Slovenia – with some gaps in practice, such as often excessive long proceedings. On the contrary, the need for (more) efficiency in the administrative procedure and work of public administration in general has been stimulated in Slovenia over the past few years mainly by the economy, either in the pursuit of greater national competitiveness, or in order to overcome the impacts of the economic crisis. Compared to the previous regulation, the modifications introduced by the new GAPA since April 2000 included, for instance redefinition of the basic principles (e.g. added discretion, supplementary examination of the party, definition of legal interest, suspended efficiency, transfer of completeness and finality, and use of language as a rule, new principle: the duty to tell the truth and fair exercise of rights); determination of the (date of) beginning of the procedure and the procedural conditions for such; encouragement of participation of all persons with the status of party (including accessory participants and representatives of public interest) in the procedure; reduction of legal remedies (appeal and extraordinary remedies) and the reasons for that in order to improve legal certainty. The amendments adopted in 2002–2013 furthermore focused on the reduction of administrative burden, such as exchange of information from official records held by the administrative bodies (2002); introduction of e-communication (2005); reduced deadlines for legal remedies (2005); more efficient delivery (2008); increased competences of the internal administrative inspection (2010); etc. There-

fore, we can claim to have traditional protection of public interest and rights of the parties implemented, but in a rather formal way. Additionally, many effective and innovative approaches have been regulated already since 1999, such as the *mutatis mutandis* application of the GAPA in the delivery of public services and special administrative enforcement, which, inter alia, reduces the need to re-codify the general law, and enact special rules. On the other hand, present regulation in place overprotects the rights of parties, and rather neglects the efficiency of administrative procedures as a whole (Kovač & Virant, 2011: 198; cf. Koprić et al., 2016).

However, according to the Constitution, the rights and obligations of individuals, particularly in their relations toward the authorities when interfering with the legal positions of the parties, can only be regulated by the law and not by a minor regulation as only in this manner it is possible to achieve the predictability of relations (the rule of law), and perform a review of the constitutionality or legality of a regulation. The tendency of sector-specific (subsidiary) regulations that interfere with the status of the parties in individual administrative cases, as above, needs to be therefore critically evaluated, mainly because of their inconsistency with the GAPA when a different regulation is neither necessary nor justified. Over the last few years (of economic crisis), such attempts have been quite frequent in Slovenia (Kovač & Virant, 2011: 205), and were triggered by political pressures to shrink administration and by the need for an easier implementation of the rights of providers of economic activities (cf. OECD, 2014). Hence, when re-regulating through debureaucratization, one has to bridge the dilemma between efficiency (in economic terms) and lawfulness in order to realize good administration (Kovač et al., 2012: 38). This arises also from statistical data. Namely, around 10 million first-instance administrative decisions are issued every year in Slovenia, 3% of which are challenged by the appeal in administrative procedure. A further share of completed administrative acts – up to 4,000 per year – is challenged in administrative dispute, while the parties file around 500 constitutional complaints against final decisions in administrative matters; the number of appeals and suits varies, yet slows down over time. The success of the parties is, of course, much more modest – empirical data show that at all levels of legal protection approx. 20% of appellants or plaintiffs succeed. The main message of European-related (and not just the EU) changes must therefore remain to pursue the balance or duali-



ty of guarantees, both of public interest and the rights and legal interests of the parties and interested persons (Statskontoret, 2005: 78).

To sum up, a new GAPA in Slovenia is required to continue a high level of protection of fundamental democratic principles but to support more towards the parties-oriented PA conduct while simultaneously ensuring efficient public policies. This law should be much shorter (presently with over 300 articles) and balanced, with a main benefit to broaden its scope according to most European countries (see Hofmann et al., 2014) to administrative legislation and administrative contracts. It should pursue modern institutes, such as alternative dispute resolution. It might also incorporate overall legal protection, judicial too, as in the Netherlands. Such a model would (see more in Kovač, et al., 2012: 57–60) preserve the traditional foundation of administrative procedure, i.e. balanced protection of the parties' rights and public interest, and simultaneously represent the driving force of modernization of the Slovene PA.

Regarding transparency, the access or right to information is a fundamental principle in a democratic society as stipulated also in the Article 42 of the EU Charter of Fundamental Rights. In the respective area, the degree of awareness of the need for an open and good administration governance is rather high in Slovenia, taking into account the EU guidelines, yet regulation alone does not suffice, and should be thus followed by effective implementation to overcome still undergoing processes of Europeanization and (post)transition (Pirc Musar in Kovač & Virant, 2011: 230).<sup>42</sup> It has been proven (cf. Statskontoret, 2005: 35–43, OECD, 2014: 29, 60) that selected procedural institutions particularly contribute to “real” transparency. They are all guaranteed in Slovene law, such as time limits (to reveal the information in 20 days), and an appeal to an independent body (e.i. Information Commissioner in Slovenia since 2003 as a kind of special ombudsman) with judicial review (in administrative dispute).

In Slovenia, the access to one's file as regulated by the GAPA (1999) is parallel to the Right to Information Act (RTI Act; 2003), providing grounds for a substantive right to access public information. Such a “double” protection

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42 In general, the problem of (non) implementation of open democracy is particularly topical in countries burdened by the legacy of a captured state with no true participation, and economic transition. Yet the culture of openness and transparency is developing in this region based on the EU impact (Agh, 2013: 6, 11; Kovač, 2015: 186).

derives from the Constitution and fundamental administrative principles as set by State Administration Act, Civil Servants Act, etc. (Kovač, 2015: 194). The purpose of the GAPA is to inform the party – i.e. the person whose right, legal interest, or obligation toward the authority is being decided on in the procedures – on the grounds for decision. The competent body must therefore assess legal interest and related rights on a case-to-case basis under the concept of subjective affectedness. Yet the restrictions may only relate to the method of access, not the actual familiarization with the relevant procedural documents, and an explicit legal basis should be provided for exceptions. Likewise, a recognized right should not be restricted beyond the purpose in a disproportionate manner (e.g. in relation to costs). Quite different is the right of access to public information; according to the RTI act, given the ultimate purpose which is to ensure openness, and thus prevent any abuse of authority and responsibility, the party is not required to demonstrate legal interest. However, the statistics show that there is an implementation gap regarding the latter, indicating approx. 50% of all appeals are made to the Information Commissioner's Office due to silence of liable administrative bodies. Legally speaking, a radical shift could be achieved with an integral understanding of the rights concerning information. In the future, it would be reasonable to combine the detailed, and almost formalistically defined systems of rights of the parties in administrative procedures to access the file of persons requiring public information into a single basic principle of the right to know (Kovač, 2015: 196; cf. Statskontoret, 2005; Hofmann et al., 2014). In this regard, over-detailed codification of administrative procedures and freedom of expression have a counter-productive effect, especially when combined with too formal culture (Kovač & Virant, 2011: 220; cf. Bevir et al., 2011: 287). More focus should be placed, *de lege ferenda*, on proactive openness, broader participation of several participants in the procedure, individual accountability, and service-mindedness in general (Pirc Musar in Kovač & Virant, 2011: 237).

In the future, it must be recognized that, in Slovenia, especially transparency and administrative procedural law should not be underestimated as a part of the overall functioning and modernization of PA. Namely, it represents a key business process as a basic function of state administration, municipalities, and all fragmented bearers of public authority. Also, defining the regulation of administrative procedural law together with the rational or-

ganization of public administration and the public servant system as a sound reform, it largely implies the exercise of constitutional safeguards (cf. Peters & Pierre, 2005: 260; Statskontoret, 2005; Koprić, 2012; Aristovnik et al., 2016). In this respect, this area needs definitely more attention in future PAR in Slovenia, both in more proactively defined regulation as in more efficient practice. Therefore, the plans, as laid out in the 2020 Development Strategy addressing administrative procedures only as a part of deregulation efforts, do not suffice neither in contextual sense nor in terms of their role within PAR.

### 8.3. Conclusion

Slovenia was historically a part of several different countries, mainly within central Europe, and in the period of 1945–1991, within the former socialist Yugoslavia. In this respect, it differs from majority of other Eastern European countries (together with Croatia) since it is characterized by German-Austrian-oriented culture and “soft” form of communism compared to the Soviet satellite countries. Consequently, it is usually established that, in public governance, Slovenia (and Croatia) presently face a combination of German traditional values and post-socialist (rather than post-communist) transitional elements. In both areas, respective characteristics can be evaluated as positive than rather negative in terms of good governance and European convergence. Namely, due to German legacy, rule of law is highly regarded, however, presenting itself not rarely in a form of (excessive) legalism and formalism. Socialism, on the other hand, introduced still a vivid capture of the state and lack of strive for efficiency in public management but offered more flexible approaches in public administration.

Slovenia is a typical Central and Eastern European country facing a mixture of its own specifics due to certain cultural legacies and radical changes aimed to internalize the European standards and principles in its public governance and administration. Consequently, we can identify radical changes of previous governance approaches due to internal incentives but mainly based on Europeanization process in a decade since the mid-1990s. However, there were and still are certain implementation gaps from the start, particularly in the areas requiring political consensus and democratic change as opposed to technical and operational measures. Nowadays, we can also detect some steps backwards if we compare aims and results of reforms after the first

years of full membership in 2004. Both side effects reveal the necessity for a further systematic top-down led strive for contemporary understood good Europeanization combining national specifics (e.g. its small size) and governance modes as pursued at a European level.

Moreover, it can be easily argued that fiscal crisis also substantially contributed to the changed modus of public governance in the country, where pre-crisis logic of decentralization and competition introduction was replaced by increased coordination, centralization, and politicization of decision-making. This evidence can further be supported with the lack of decentralization initiatives, including the introduction of the second tier of sub-national government as well as with the deagenticification, although only modest, that occurred in the last 4 years.

As for the future, if Slovenia is to pursue continuous system development, overall strategic orientation should be designed based on the vision of the role of Slovenia within its national society and international environment. The development of public administration through good governance principles opens new possibilities for further development of Slovene democracy as well. As we can observe, the dynamic perspective is particularly viable, therefore we should be focusing more on improving efficiency of governmental policies and decision-making as well as on operating framework as they are acting as one of the most important inhibitors in achieving national competitiveness. Besides achieving a better balance between legalism and managerialism that should be found through participative inclusion of different societal groups, the decision-making process itself should be streamlined and more strategically oriented.

To finalize, as the evidence stated above might suggest, the following can be observed among others. First, fiscal crisis has changed substantially the modus operandi of the government as austerity and cutback management practices started to prevail from 2009 onwards. Typically, this has increased pressures towards recentralization and coordination in political decision-making, sharply redefining public governance practices. Second, the cross-national evidence might indicate that the quality of PA might be getting worse, in particular, if we observe its perceived contribution to the national competitiveness, therefore clear reforms of decision-making mechanisms in particular are needed.

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## 9. Reform of the Croatian Public Administration: Between Patchy Europeanization and Bumpy Modernization

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*Ivan Koprić*

### 9.1. Introduction

Croatia is a relatively small country situated between Central and Southeast Europe, i.e. in the north-western part of the Balkan Peninsula. It encompasses the area of 56,594 km<sup>2</sup> in three geographical and climate zones, i.e. Pannonian Plains, Adriatic coastal zone, and mountainous area of Dinaric Alps lying in between the first two. Croatian Adriatic mainland coast is rather long – 1,777,3 km. Croatia's territorial waters encompass 18,981 km<sup>2</sup> with 1,246 islands and islets. The neighbouring countries are Italy (sea border), Slovenia, Hungary, Serbia, Montenegro, and Bosnia and Herzegovina.

The population has been in decline after the census of 1991 when it peaked at 4,784,265 inhabitants. The next two censuses have shown a drop to 4,437,460 in 2001, and 4,284,889 in 2011. Real urbanization rate is 53.6% (DZS, 2011: 19). Majority of inhabitants are Croats (90.4%), and the largest national minority are Serbs (4.4%). Other minorities are Bosniaks (0.7%), Italians (0.4%), and Roma (0.4%). There is a growing group of inhabitants who perceive themselves as Istrians, i.e. Istrian regionalists (0.6%), although the "Istrian" nation does not exist. The largest religious group is Catholics (86.3%), while Orthodox population has a share of 4.4%. The average age of population is continuously growing, ranging from 30.7 years in 1951 to 41.7 years in 2011.

During socialism, Croatia was one of the federal units of the Socialist Federative Republic of Yugoslavia. Although the regime was socialist, after the 1948 break with the Soviet Union, Tito's leading group chose so-called third way. Such an orientation had internal and external consequences, ranging from self-management and "soft" socialism within the country to the establishment of the Non-Aligned Movement and overall country's openness in international relations.<sup>43</sup>

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43 The Non-Aligned Movement was established in Belgrade in 1961. Yugoslavia was one of the

The first free, multiparty democratic elections were held in the spring of 1990, and the democratic Croatian Parliament was constituted on 30 May 1990. A referendum on independence was held on 19 May 1991, resulting in the declaration of independence on 25 June 1991. Croatia's independence was recognised by the European Community on 15 January 1992.

The Constitution of 1990 instituted a semi-presidential system with directly elected president of the Republic who had a very strong position following the model of the French Fifth Republic. The parliamentary system was introduced by the constitutional amendments of 2000. The Constitution retains directly elected President of the Republic, but his competences are significantly reduced. The Croatian Parliament (Sabor) has been unicameral since the Constitutional Amendments of 2001 which abolished the Chamber of Counties.

Croatia is a unitary State (Constitution, Art. 1) with three governance levels: national, mezzo (20 counties; *županija*), and the local levels (428 municipalities and 128 towns, 17 of which have a special status of large town). The capital of Croatia, the City of Zagreb (790,017 inhabitants), has a special status, having the competences of both town and county, and a significant role in performing delegated state administrative tasks on its territory. Croatia is also divided into two statistical regions (Continental Croatia and Adriatic Croatia) for regional development purposes according to the European Union NUTS rules.

Croatia became a member state of the United Nations in 1992, and the Council of Europe in 1996. It joined NATO in 2009, and became a European Union member state on 1 July 2013. Last decade has been characterised by increasing influence of the EU liberalization, commercialization, and privatization policies regarding services of general interest.

Croatia was hard hit by the global economic crisis in 2008. The largest GDP rate drop of -7.4 was experienced in 2009, followed by negative values until 2015 (-1.7 in 2010, -0.3 in 2011, -2.2 in 2012, -1.1 in 2013, and -0.4 in 2014). In the period of 2008–2014 GDP dropped by more than 12%, and unemployment rate grew from below 9% to more than 17% with rather high youth unemployment rate. The employment rate fell to 57.3% in 2013. Since

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leaders of this network. The Movement tried to promote a middle course between the Western and Eastern Blocks.

the beginning of the crisis, about 150,000 jobs have been lost. Government debt increased during the same period from 38.9% to 85.1% of GDP. At the end of the crisis, in 2014, the share of persons at risk of poverty and social exclusion was extremely high – 29.3%. In the same year, total number of employed persons was 1,342,000. The prolonged recession lasted for six years. The beginning of economic recovery started only at the end of 2014, and is rather slow (EC, 2016; Petak et al., 2015).

Croatia is in 50<sup>th</sup> place with score of 51 on the 2015 Corruption Perceptions Index list, improving its 67<sup>th</sup> place of 2004, when it was confirmed as an EU candidate country. In 2015, Croatia was ascribed UNDP's Human Development Index of 0.818, and was placed in the 47<sup>th</sup> position on the list. Gross domestic product per capita in 2014 was € 10,162.

After presenting the basic data about Croatia, its complex history, and current societal environment are delineated in this chapter. The basic institutions of the Croatian public administration are outlined and its post-1990s development is traced. Following the historical institutionalism pattern, four developmental phases are identified: establishment, consolidation, Europeanization, and modernization phases. Main problems and attempts to solve them are systematised and analysed in the next paragraph as the problems of orientation, organization, motivation, and implementation, along with the relevant reform attempts.

The five main reform concepts and processes in Croatia are identified on the basis of a comprehensive analysis of empirical data, various previous project findings, and our own research: a) democratization and decentralization, b) building transparent and open public administration, c) introducing modern human potential development and management, d) reforming administrative procedures and strengthening legal protection of citizens, and e) experimenting with public management.

Three potential scenarios of future development are conceptually straight modernization, inertia, and – the least probable – chaotic institutional decline. The Croatian public administration reform has been conducted in a patchy manner, although continuously under the notion of Europeanization – a major part of dominant concepts is connected with good governance model with some elements of new public management.

## 9.2. Croatia as a Country Imbued with History

Having a highly complex history does not make Croatia an exception among European countries, but its case is somewhat more specific than expected. After the establishment of an early medieval Croatian state (845–1102), followed by a personal union with the Kingdom of Hungary (1102–1526), it became a part of the Habsburg Monarchy in 1527. Not only was the Croatian territory subjected to constant and serious Ottoman attacks, it was also used for the establishment of the so-called Military Border (*Militärgrenze*) and Military Zone. New settlers coming into this Zone, mostly migrants from Serbia and other areas conquered by Turks, were after some time granted autonomy with regard to the autonomous Croatian bodies (Sabor and Ban).<sup>44</sup>

After political and administrative reforms during the second part of 19<sup>th</sup> century, Croatia gained certain internal autonomy within Hungarian part of the Austro-Hungarian Monarchy. Croatian autonomy was relatively limited, and its political position quite weak. Croatian regions were organized within the Austrian (Istria, Dalmatia, and Military Zone) and Hungarian parts of the Monarchy (Central and North Croatia, and most of Primorje). Croatian regions lodged to Austrian part of the Monarchy did not have any internal autonomy. The majority of Croatian territories in the Hungarian part of the Monarchy had internal autonomy, while the city of Rijeka and some other territories were ruled directly by the Hungarian authorities. The efforts to integrate the Military Zone with the rest of the country finally ended in 1881. However, Istria and Dalmatia remained within the Austrian part of the Monarchy.

The development within a large and complex monarchy that had a well-known professional bureaucracy, cameralism as the dominant administrative doctrine, legalistic orientation in functioning of administration, and weak democratic standards had a deep impact on public administration in Croatia. The beginnings of professional administration date back to the period of political absolutism. The first, unsuccessful attempt to establish a professional administration in Croatia during the reign of Maria Theresa was paralleled by the feudal organization below the level of central government institutions. There were counties with aristocratic self-government, royal boroughs, and rural communes.

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44 One of the first important legal documents in that regard was Statuta Valachorum of 1630 issued by the Holy Roman Emperor Ferdinand II.

A new attempt to create professional administration in Croatia was not made until one hundred years later, after the abolition of feudalism and the Revolution of 1848 that led to the reforms of Franz Joseph I. Counties and communes lost their feudal aristocratic autonomy during the wave of absolutism led by the Austrian Minister of the Interior, Bach. A vertical line of administration was created: Croatian vice royal (Ban) government – counties – districts. The real commencement of professional state administration and modern local self-government in Croatia is connected to the reforms of Vice Roy (Ban) Ivan Mažuranić following the Austro-Hungarian Compromise of 1867 and Croatian-Hungarian Compromise of 1868.

After World War I, Croatia became a part of the Kingdom of the Serbs, Croats and Slovenians. Some parts of the Croatian territory (Međimurje and some others) were returned to and merged with the newly established state. Dominant Serbian political forces managed to turn the country into a unitary centralistic monarchy. After the royal dictatorship of King Aleksandar had been established in 1929, the country was renamed the Kingdom of Yugoslavia. Yugoslavia was divided into nine large administrative provinces – *banovina(s)*. Croatian territory was divided between two of those provinces. In 1939, Croatian and Serbian politicians agreed upon the establishment of *Banovina Hrvatska*, a political, administrative, and territorial unit within the Kingdom of Yugoslavia that was projected to have a relatively high autonomy in relation to the central government in Belgrade. However, it never came into function.<sup>45</sup>

During World War II, there was a collaborationist regime called the Independent State of Croatia (NDH) led by Ante Pavelić. The main collaborationist force was the Ustashe. However, as early as in 1943 the anti-fascist Yugoslav Partisan movement on the liberated Croatian territory (ZAVNOH) established a new Croatian government. Both authorities, those of the puppet NDH and ZAVNOH, continued to function until the end of the War. Affiliation to either Ustashe or Partisans incepted one of the main social and political cleavages in Croatia.

The new Yugoslavia created after the World War II was a federation consisting of six republics. It managed to regain authority over the Croatian territories in the coastal zone, such as Istria, Kvarner, and Zadar. Croatia

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<sup>45</sup> The territory of *Banovina Hrvatska* included Croatia and large parts of Bosnia and Herzegovina.

was given the status of a federal republic and kept it until Yugoslavia's dissolution. The provisions of the 1974 Constitution significantly strengthened that status. Along with the federative organization, the "new" Yugoslavia was characterised by a single-party system and an attempt at building socialism, which placed it among the socialist countries of Eastern Europe where the state was in charge of planning the economy, and the whole system was centralised and politically monopolised by the single party – the Communist Party.

What distinguished Yugoslavia from other socialist countries was an attempt to realise the concept of self-management. The state experimented with the idea of self-management in both economic affairs and territorial organization of the country. Workers' self-management was referred to as a kind of extremely developed type of industrial democracy. It was based on the concept of social ownership, which was considered to be "everybody's and nobody's". The idea that those who worked simultaneously had a share in decision-making, i.e. that the workers managed their factories by themselves, displayed certain motivational effects. Although the economic system was based on planning, market rules gradually gained more space. Those reasons made economic development possible, even quite intensive and quick during some periods (Horvat, 1984).

As far as territorial organization of the country was concerned, the idea of self-management was incorporated in the concept of commune. The notion of commune as a basic territorial unit was formed on Marx's glorification of the 1871 Paris Commune as a prototype of ideal socialist political community (Šmidovnik, 1995: 153). The governance system in Croatia, similar to the situation in other Yugoslav federal units, was locally oriented with strong, autarchic communes that provided a wide circle of public services on their territory.

At the end of the 1980s, the political system in Croatia was not as rigid as in other Eastern European socialist countries. Its economy moved towards the world business processes, trying to experiment with market principles, and was familiar with strong elements of industrial democracy. However, the privatization that followed during the 1990s was unnecessarily harsh and non-transparent, and did not respect any peculiarity of the social ownership and self-management system.



The constitutional position of Croatia and other federative republics in Yugoslavia was quite strong. The first multi-party elections of 1990 and the transfer of power to the winners passed peacefully. The new Constitution of the Republic of Croatia adopted at the end of the 1990s enabled transition to market economy and multi-party democracy, and granted a wide range of human and civil rights. Referendum on the independence of Croatia was held in May 1991. Those elements constituted a firm basis for the Croatian Parliament's decision on independence and secession from other parts of Yugoslavia adopted on 25 June 1991. International community recognized Croatia at the beginning of 1992.

Transition to the new economic and political system happened under the complicated circumstances of intra-Yugoslav conflict between the republics that were in favour of democratization led by Slovenia and Croatia, while Serbia was striving for domination over all Yugoslav federal republics. The war began in the summer of 1991, provoked by the aggression of the Yugoslav People's Army and rebellion of the Serbian minority in the regions where the Serbs either were a majority of population or had a significant share in it. The war exhausted the country economically and politically, harming the political democratization in the process.

The dominant governance concept during the 1990s was based on the paternalistic notion of the decisive role of a charismatic political leader. That notion was supplemented with the attitude that the majority had a full legitimacy and the right to make decisions by outvoting, regardless of the opinion of any minorities (national, political, social) and with the insistence on the principle of state sovereignty in its obsolete form. On the other hand, citizens' patriotism was strongly stressed. The dominant type of culture was one of the unfavorable conditions that hindered further development of the new democratic institutions. Political, administrative, and general social culture was based on the authoritarian values (Pusić, 1992: XIV-XV; Kasapović, 1996: 153–178).

The 1990s were the years of strong etatization and centralization, while privatization was connected with general transformation of the former social ownership into either private or state ownership. In the public sector, privatization was delimited to certain services, like primary healthcare, telecommunications, or waste management, that followed the new public

management and EU privatization experiences. However, many services were retained in the public sector but under a strong control of central state bodies. Local government and its role in the service provision were significantly weakened. There existed vivid remnants of public *esprit de corps*.

The main circumstances that outline societal environment for the development of the Croatian public administration are the following:

- Croatia acquired independence after hundreds of years at the very beginning of the 1990s, which asked for and offered opportunity for building the whole public administration system in a modern way,
- Development has not started anew, since public administration in Croatia during socialism had significant constitutional, legal, organizational, and functional autonomy from federal (Yugoslav) bodies similar to other Yugoslav republics,
- Certain important parts of state administration had to be developed from scratch, such as diplomacy, custom service, army, intelligence service, certain components of internal affairs, and police service, etc.,
- Self-management political and social experiment in the “second” socialist Yugoslavia (1945–1990) raised consciousness about public value, social welfare, and public participation in political decision-making, especially during the 1970s and 1980s,
- Serb rebellion and war with the former Yugoslav Army and Serbian paramilitary forces postponed genuine democratization, and caused significant economic and demographic loses in the period of 1991–1995,
- There has been a strong need to strengthen the private sector in the course of transition from so-called social ownership economy to market economy,
- Privatization of the former social ownership provided impetus for the introduction of the new public management doctrine in the public sector,
- Europeanization of public administration, meaning harmonization with the *acquis communautaire*, court, and soft EU law, and entrance into the European Administrative Space, have strongly emphasised the issue of good governance.

## 9.3. Croatian Public Administration

### 9.3.1. Outline

The Croatian public administration consists of state administration, local and regional self-government, and public services (services of general interest). These three fields are regulated separately. Moreover, public services are regulated in a fragmented manner by many sectoral laws. Apart from constitutional provisions, core public administration is regulated by two systemic laws, the Act on State Administration System (1993; 2011) and the Act on Local and Regional Self-Government (2001; previously Act on Local Self-Government and Administration of 1992). The civil service system has been regulated by three main laws, State Servants Act (2005; previously the Act on State Servants and Employees of 1994 and 2001), Act on Servants and Employees in Local and Regional Self-Government (2008), and Act on Salaries in Public Services (2001).<sup>46</sup>

There are two levels and four types of state administrative bodies. At the central level, there are ministries, state administrative organizations, and state offices of the Government. There is also the Government's Office mainly functioning as the Government's secretariat with a rather weak position and narrow competences. The difference between the ministries and state administrative organizations is in political importance and political influence as the ministers are members of the Government, and heads (*ravnatelj*) of state administrative organizations are not. These two types of bodies are in a way successors of former republic secretariats (transformed to ministries) and committees (transformed to state administrative organizations) from the socialist period. The state offices are in the closest relation with the Government, serving as a tool for improving Government's efficiency. The smallest total number of central state bodies was 23 in 2003, while the largest number oscillates between 30 and 35. Currently, there are 31 central state administrative bodies, 20 ministries, 4 state offices, and 7 state administrative organizations. A clear distinction between different types of organizations at the central level does not exist either in systemic legal regulation or in practice. All three types of organizations – ministries, state offices, and state administrative organizations – have similar types of competences, including public policies, drafting

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46 It only regulates the pay system in public services financed by the State Budget.

legislation, administrative supervision, etc. In practice, the decision about the number of types, number of organizations and their classification with regard to the types is mainly a political one.

There is a legal base for and widespread practice of establishing administrative organizations within the ministries and state offices. One type of such “organizations within organizations” has even been established and regulated by special laws, such as the Tax Administration Act, Police Act, Financial Police Act, etc. Another type has been established by the Government’s decrees on internal organization of the ministries and state offices. Regular types of administrative organizations within the ministries are administrations, committees, and directorates, while sectors can be established within state offices. These “organizations within organizations” function in practice as pure internal organizational units within administrative bodies, except those that have been established by special laws – they are much larger, have greater importance, and a higher level of autonomy. When theoretical criteria apply (Verhoest, 2012), some 20 type-1 agencies (without legal personality as the administrative organizations with certain degree of managerial autonomy) can be identified within the Croatian state administrative system (Government’s Offices and professional services, administrative organizations within state administrative bodies, state offices, and state administrative organizations).

There are many other bodies at the central level, such as executive and expert agencies, independent regulatory bodies, other public bodies, and legal entities with public competences. All of them may be subsumed under the notion of public agencies.<sup>47</sup> Some of the agencies have this notion in their official name (“agency for ...”), while others are called institutes, funds, offices, centres, bureaus, etc. The process of agencification was at its peak in 2009 when 87 public agencies were identified. In the 2010–2012 period, 19 agencies and similar bodies were abolished but 7 new were established (Musa & Koprić, 2011; Musa, 2014).<sup>48</sup>

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47 Current scientific research throughout Europe tends to use common classification of administrative organizations within national public administrations that has been developed in the course of a large scientific project by Sandra Van Thiel (see in Verhoest et al., 2012).

48 The Ministry of Public Administration collected information about 173 (2012) and 176 (2015) public agencies and other more autonomous bodies (MABs; comp. Pollitt, 2004; Musa, 2014) on survey basis, trying to institute the de-agencification process. However, the results of rationalization process are rather modest.

On the first level, there are 20 deconcentrated offices of state administration, one on the territory of each county, competent for the first instance administrative procedures and other administrative tasks. While these first instance offices have 91 branch offices and 302 register offices, central administrative bodies have 1,279 branch offices all over the state territory (Strategija, 2015: 44).<sup>49</sup> The practice of delegation of state administrative tasks to local governments, although legally possible, is almost non-existent. The only local government granted with delegated state administrative tasks is the City of Zagreb, in which some ¼ of the city servants perform such tasks for the central state.

The system of local and regional self-government consists of 428 municipalities, 127 towns (17 of them with over 35,000 inhabitants have a special status of large towns), 20 counties, and the City of Zagreb (which has a twofold status of local and regional government). Municipalities in predominantly rural areas and towns in predominantly urban areas perform local affairs. Slightly less than 30% of population lives in rather small municipalities (2,964 inhabitants in average). A bit more than 70% of population lives in towns (17,529 inhabitants in average). There are 70.9% of local governments with less than 5,000 inhabitants (18 towns and 376 municipalities). The second tier governments are counties (174,744 inhabitants in average, if Zagreb is excluded). Counties are autonomous second tier governments, strictly separated from the offices of state administration in terms of organization, finances, and personnel. Croatian local government system has been characterized by the fragmentation process, whose course may be observed from the data presented in Table 9.1.

**Table 9.1:** Fragmentation Process in Croatia 1991–2016

Type \ Year	Communes	Municipalities	Towns	Counties	Total	Index
1991	101	-	-	-	101	-
1993	-	418	68	20+1	507	502
1998	-	420	122	20+1	563	111
2003	-	423	122	20+1	566	101
2006	-	429	126	20+1	576	102
2016	-	428	127	20+1	576	100

*Source: Author.*

<sup>49</sup> About 65% of state servants and employees work in branch offices, while only about 35% work in central units of ministries and other state administrative bodies. Less than 4.5% of state servants and employees, i.e. 2,642 of them work in the first instance offices of state administration.

The majority of public services are centrally financed. These are education, health service, social security, culture, science, and the like. Some of the public services are locally financed, like, for example, pre-school education and kindergartens, libraries and museums, utility services, etc.

In the whole public sector, there are four categories of civil servants and other professionals whose status is regulated separately by a special legislation. There are approx. 59,500 civil servants and employees in the state administration, not counting the military and intelligence service personnel and police officers. In all local governments and counties, there are approx. 14,500 executive functionaries with professional status, civil servants, and employees. Centrally financed public services are employing about 180,000 people (including those in the agencies and other bodies), and locally financed public services additional 26,500. The fifth category in the public sector comprises the employees of public companies whose status is regulated by the Labour Act, e.g. in utility services, state oil company, state postal service, state electric power industry, and the like. Total number of public personnel is shown in Table 9.2.

**Table 9.2:** Number of Personnel in the Croatian Public Administration, 2016

Employed personnel in various parts of public administration	Number of employed persons
State administration	59,500
Public agencies at the national level	5,000 <sup>50</sup>
Local governments	14,500
Centrally financed public services	180,000
Locally financed public services	26,500
Total	285,500

*Source: Author.*

### 9.3.2. Development

The development of Croatian public administration can be systematized in four phases (described below). The first, establishment phase started with independence gained in 1990 and finished with administrative reforms in 1993, when the second (consolidation) phase began. The third phase started in 2001 and was initiated with a new package of reform measures motivated mainly by political decision to enter the process of Europeanization. The

<sup>50</sup> An assessment.

adoption of the first Strategy of State Administration Reform in 2008 denoted instigation of the new, fourth phase – the phase of modernization of Croatian state administration.

- **Establishment Phase**

The Constitution of 1990 introduced a semi-presidential system based on the French model. The Government was appointed by directly elected president of the Republic, and was accountable to him and to the Parliament. Before the first significant reform of the territorial administrative system, which took place in 1993, the development of Croatian state administration had been characterized by a number of frequent changes, and poorly conceived and executed reorganizations. The frequency of such reorganizations was caused by the necessity of creating new administrative organizations in a new State (foreign affairs, defence, customs service, etc.), and by political contingencies in governance system which was not fully stabilized. At the end of the socialist period, local units in Croatia were large monotypic communes with 42,339 inhabitants in average, having a substantial decision-making autonomy, a very wide scope of affairs, and high financial share in public revenues and expenditures (more than 40%). At the beginning of the 1990s, such strong communes either became the central government's obedient servants, or established themselves as the focal points of a strong opposition, even resistance to the central government (almost all communes with Serbian majority). The Serb rebellion and war started in 1991. Rigorous screening took place in the civil service based on political, national, and similar criteria, and subsequent hidden lustration changed the picture in the whole public sector.<sup>51</sup>

- **Consolidation Phase**

From 1993 to 2001, public administration in Croatia faced etatization, centralization, and politicization of an authoritarian type. An ever-increasing number of civil servants, insufficient level of professionalism, and politicization of civil service additionally encumbered the situation. Democratic political values were repressed, public policies weak, and the rule of law was endangered. The lack of coordination in the administrative system was compensated for by arbitrary, *ad hoc* political interventions. Governance system was closed and bureaucratized, imbued with the climate of secrecy.

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51 Approx. 20% of state civil servants were replaced with newcomers as well as about 10% of people in public services (Koprić & Marčetić, 2000).

The first systemic law that regulated state administration was the Law on the System of State Administration of 1993. It determined the ministries, state administrative organizations, and county administrative departments as the state administrative bodies. A large proportion of public services provided in the communes as the powerful local governments until the end of 1992 were taken over by the central state bodies. It was a massive *etatization*, i.e. a process in which the central state appropriated public services from the former local self-government units, followed by a tremendous redistribution of public revenues, responsibility, significance, and power.

The reform at the local level was carried out in 1993 through the Law on Local Self-Government and Administration, and certain other laws. The old French centralistic model of state organization with a strong position of central executive was literally transplanted to Croatia in its most important characteristics. The key role in the new system was given to the county level as a supervisory, and decreeing middle level between the central government and local units. The most powerful official was county governor, who was central state representative in the territory of the respective county approved by the president of the Republic on the proposal of the Government (for details see Koprić, 2010a: 110–111).<sup>52</sup>

The State Civil Servants and Employees Act of 1994 regulated their status for the first time after the Croatian independence. The Act on the Salaries of

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52 In comparison with other states on the territory of the former Yugoslavia, Croatia went through the most intense fragmentation process, increasing the number of local governments five times (from 102 to 556; 392% increase) and introducing counties as the second tier governments. In the group of former Yugoslav countries that went through the fragmentation process in the period 1990–2016 are also Slovenia and FYR Macedonia. Slovenia increased the number of local governments 2.5 times (from 62 to 212; 241.9% of increase), and Macedonia for 1.5 times (from 34 to 84; 147.1%; Macedonia had 123 local governments in the period of 1996–2003 but then reduced their number to 84). In the group of countries with moderate increase of the number of local governments are Kosovo with 40.7% and Bosnia and Herzegovina with 30.3% increase. Montenegro with increase of 15% and Serbia with increase of 6.1% have experienced only a mild fragmentation. The largest average size of local governments is at Kosovo (about 58,900 inhabitants) and in Serbia (about 55,800 inhabitants). Local governments in Macedonia and Montenegro have about 27,000 inhabitants, and those in Bosnia and Herzegovina have about 26,400 inhabitants in average. The smallest average size of local governments is in Slovenia (about 9,700 inhabitants) and in Croatia (about 7,700 inhabitants) (calculated on the basis of data in Osmanković, 2015). Only Croatia and Bosnia and Herzegovina have established second tier governments. In Bosnia and Herzegovina they are called cantons (10 of them), and only in the Federation of Bosnia and Herzegovina they were established as one of the three federal units.



Civil Servants and Employees in Public Services was passed simultaneously. Before that, the provisions of the Administration Act of 1978, which regulated civil servants' status, applied on the Croatian state and local servants "accordingly". Local civil servants remained in the same position during the period 1994–2001, since the laws of 1994 did not regulate their status. The number of employees in certain public services (research and development, culture, sport, art and media, health care, welfare and education) decreased at the beginning of the 1990s, while defence, police, finances and foreign affairs recorded a considerable increase of their personnel.<sup>53</sup>

- **Europeanization Phase**

The Amendments to the Constitution of 2000 were adopted following the first political change after 1990. They were prepared by the new, coalition, left-centre Government of Ivica Račan, and marked the beginning of the democratization and decentralization processes. The previous semi-presidential system was substituted with the parliamentary one. Harmonization with the European Charter of Local Self-Government began three years after its ratification in 1997. The Constitution guaranteed transfer of many significant public affairs to local governments and counties. The lines of subordination of local governments to the central bodies were cut off by redefining the institution of the county governor, and limiting or specifying the powers of the state administrative bodies over local self-government. County governor became local official elected by the county assembly.

The first instance county administrative departments (175 of them) were merged, and reorganized to only one state administrative office per county. The number of state servants was reduced, particularly in defence, internal affairs, and in the first instance state administrative offices. The status of state civil servants was regulated by the State Civil Servants and Employees Act of 2001. The main intention of that Act was to replace the former career system with the classification according to job complexity – at least formally.

Croatia was a latecomer to the Europeanization process, which started

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53 There were 72,421 people in the army and police in 1998, counting for 7.20 % of the employed working force in the country. The whole public administration employed 243,983 people in the same year, while only 45,659 civil servants and employees were employed in the state (civil) administration. The employed working force in the country amounted to about 1,005,500 people. The most tragic situation was in research and development, where the number of employees in the period 1990–1996 decreased to 47.1 per cent (Koprić & Marčetić, 2000).

only in the third phase. By that time, the majority of former socialist countries had already advanced deep into that process. The first significant formal step in Europeanization was signing of the Stabilization and Association Agreement in 2001. Croatia was granted the candidate country status in June 2004, a month after the accession of 10 transition countries. The negotiation process was completed in summer 2011, after six years. The accession contract was signed at the end of 2011, and Croatia became the 28<sup>th</sup> member state on 1 July 2013. The referendum on the EU accession was held in January 2012. There were 66.3% of citizens in favour of accession, but turnout was relatively low, only 43.5% of the electorate.

One of the numerous tasks during the accession process was harmonization of domestic legal system with the EU *acquis communautaire*. The whole governance system dealt with this huge task. As many as 523 laws (out of 2,005, or 26.1%) were harmonized in the 2000–2011 period. Urgent legislative procedure with only one reading was applied in about 80% of all “harmonized” laws, which was criticised by the OECD-Sigma and professional community (Vidačak & Škrabalo, 2014).

A complex new institutional arrangement was established for accession negotiations. The Ministry of Foreign Affairs and European Integration, State Delegation for Accession Negotiations, Government’s Coordination for Accession Negotiations, Accession Negotiation Team and its Secretariat, working groups for all negotiation chapters (35 chapters; over 1,800 experts, one third of whom were not from public administration), Chief Negotiator and his Office, and National Committee for Monitoring Accession Negotiations participated in this new network.

Croatia’s progress in acquiring the European administrative standards, and building administrative capacities for effective implementation of the EU *acquis communautaire* was extensively assessed by the OECD-Sigma and the European Commission (Koprić, 2014: 2–14). They both clearly stated serious reform problems and inadequacies in six regularly evaluated areas: democracy and the rule of law, civil service and administrative law, integrity, public expenditures management and control, public procurement, policy making and coordination. Croatia was a carefully monitored country during the accession decade. The OECD-Sigma alone submitted and published more than 40 reports on the progress in various administrative fields.

The EU technical assistance, financial support, monitoring, and reporting significantly supported many and considerable improvements of the Croatian public administration. The EU invested about € 1.6 billion in administrative reform projects in Croatia (Koprić et al., 2012: 267–271). During the same period, additional projects were financed by other international organizations, such as the World Bank or UNDP as well as by other countries through their international development organizations and funds (Denmark, the USA, the Netherlands, Sweden, the UK, etc.).

- **Modernization Phase**

A sort of administrative modernization started parallel with Europeanization. Modernization is, according to Pollitt and Bouckaert (2003), one of the administrative reform strategies, different from maintenance, marketization, and minimization. It intends “to make more fundamental changes in structures and processes, for example, by changing the budget process to an output rather than an input orientation; create new types of public sector organization, such as autonomous agencies; or change the employment contract for civil servants” (Pollitt & Bouckaert, 2003: 23).

Although signs of modernization efforts may be found even earlier, a decisive moment happened in March 2008 when the Government adopted the Strategy of State Administration Reform for the Period of 2008–2011. Among particularly desirable and, in the long run, potentially most productive measures are those concerning administrative education and in-service training.<sup>54</sup> The indicators of implementation progress were broad and insufficiently precise, which makes the monitoring and evaluation of its implementation difficult. A body in charge of evaluation of Strategy implementation (the National Council for Evaluation of State Administration Modernization) was established in autumn 2008, and dissolved in summer 2009 without any significant output. Many reform measures have been defined only on the normative basis, i.e. amendments to the existing regulations, and enacting new regulations were promised but the principles on which these regulations were to be based had not been established.<sup>55</sup> There was neither financial plan nor funds for the im-

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54 Many authors have stressed the importance of in-service training for the necessary change of administrative culture and public administration reform (see, for example, Rocha & de Araújo, 2007: 588).

55 That enabled as many as about 40% of measures to be achieved in some 15 months, according to the official data of the then Central State Office for Administration. Official assessment of the

plementation of the Strategy. There was an attempt to amend the Strategy in 2010 but it ended without results. At the end of the period, there was no further effort to adopt a new Strategy. Although the Strategy had only moderate influence (for detailed review see Koprić, 2008a), it marked general modernization policy of the right-centre government of Ivo Sanader and Jadranka Kosor.

The new left-centre Government of Zoran Milanović, elected in 2011, was rather reluctant to prepare a new strategy of public administration reform. However, after long preparation, in June 2015 Croatian Parliament adopted the new Strategy of Public Administration Development for the period of 2015–2020, mainly because of the EU pressure. However, some participation of interested civil society organizations and representatives of academia in preparation of the Strategy was provided. The new strategy covers not only state administration, as the previous one, but also public agency model at the central level, and the local self-government system. Public services are still not included. It contains 17 goals with regard to better provision of administrative services, development of human potentials, and improved system of public administration. As many as 42 serious reform measures have been programmed for their implementation. 6 additional measures have been programmed, and a special institutional arrangement was invented for the Strategy implementation. The first Action Plan for the Strategy Implementation in the Period 2015–2017 was adopted by the Government in September 2015. The end of mandate prevented the Government from starting a real implementation process, and even an institutional arrangement for implementation was not established.

After the parliamentary elections in November 2015, the Government of Tihomir Orešković was elected in the Parliament in January 2016. Instead of Strategy implementation and regardless of the 2015 Action Plan, the new Government adopted the Decision on Implementation of Reform Measures for Improving System of Public Administration in February 2016. This Decision

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Ministry of Public Administration included in the text of the new 2015–2020 Strategy stressed that about 89% of all reform measures were implemented, partly implemented, or in the course of implementation at the moment of the new Strategy adoption (Strategija, 2015: 4). Criticism on the formal normative approach and excuses can be found not only in academic papers but also in the Ombudsman's Annual Report of 2009 (Pravobranitelj, 2009: 107): "It seems that there is expectation according to which new legislation might in itself prevail over all weaknesses in the system that cause the problems."

reduced the number of reform goals to three: a) efficient and citizen-oriented public administration, b) development of human potentials for efficient public administration, and c) quality of ICT-supported administrative services. Three different commissions were established for coordination of reform activities: a) commission for modernization of public administration system, b) commission for development of human potentials in public administration, and c) commission for improving ICT support to public administration. Because of the internal governing political coalition's reasons, the Ministry of Public Administration with the minister from a minor coalition partner, lost the leading position in the reform process. The Ministry preserved its influence only in regard to overall administrative modernization. However, a few months later the Parliament passed a vote of no confidence in the government, and new elections were scheduled for September 2016, thus aborting the Government's public administration reform efforts.

### 9.3.3. Main Problems and Attempts to Solve Them

Croatian public administration has been burdened by numerous complex problems requiring solutions that meet high standards, firm and committed pro-reform leadership, and professional monitoring and evaluation of reform implementation. The main problems may be systematized into four groups which tackle orientation, organization, motivation, and implementation. Many other administrative problems can be added, witnessing that this simple classification may be used only as an initial analytical tool for the analysis of current situation.

- **Orientation Problems**

A traditional opinion inherited from the earlier non-democratic systems that politics and politicians exclusively look after public affairs and take care of public interest has led to great deficiencies in the capacity of public administration to formulate a long-term public interest. This interest goes far beyond a single political mandate and needs to be defined on the basis of a well-established and informed **strategic planning** (extensively in Brusis et al., 2007). The data on which the strategic plans are based must be reliable, and the plans themselves professionally prepared. The strategies must have in-built mechanisms of monitoring, control, and adjustment to changing conditions. Results have to be evaluated in a systemic manner. What seems discouraging in Cro-

atia can be called the paradox of “glass-strategies”: having much more than a hundred formally accepted strategies in various fields and with regard to various issues and problems, the country is still lacking strategic plans of solid quality despite certain improvements. Strategic goals are not clearly established, financial resources are not decided, performance indicators are vaguely defined, monitoring and control are either lacking or are defined in a formalistic manner, etc. Moreover, even when strategies are well designed, there is a significant lack of political will to support implementation of adopted strategies.<sup>56</sup> The first significant step in improving the capacity of strategic planning was made in July 2000 when the Government’s Office for Strategy of Development of the Republic of Croatia was established.<sup>57</sup> Its main task in the period 2000–2003 was to serve as the organizational support for the project “Croatia in the 21<sup>st</sup> Century”. The project gathered some 600 experts and resulted in the preparation of 19 strategic documents, out of which 9 were adopted by the Parliament (Boko et al., 2004). Further efforts regarding strategic planning were connected mainly with the EU accession. Based on the experience of the two functional review projects, which stated almost complete lack of strategic goals and poor practice of strategic planning (Koprić, 2006; Tišma et al., 2012: 56), the Budget Act of 2008 obliged the ministries and other central state bodies included in the state budget to prepare three-year strategic plans. The practice of preparing such plans started in 2009, for the period 2010–2012, under the guidance of the Ministry of Finance. Obligation of counties to prepare their development strategies was established by the Regional Development Act of 2009, and has existed from 2010 onwards.

Closely linked to the problem of deficient strategic planning is the weak capacity of public administration to design high quality, long-term **public policies**. Public policies have been excessively influenced by day-to-day po-

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56 Two strategies of public (or state) administration reform were adopted (2008, 2015) but a strategy of decentralization has not been prepared yet, although decentralization has been a topical issue since the end of the 1990s (for a plea for such strategy see Perko-Šeparović, 2010; comp. Koprić, 2008). In spite of the importance of services of general interest for the community, economy, and quality of life, there is neither a general policy document nor any general regulation on the basic issues of public services. There are only sectoral strategic documents which are not coordinated at all.

57 It continued to function until 2011 as the Central State Office for Development Strategy (2003–2006) and the Central State Office for Development Strategy and the EU Funds (2006–2011). In 2011, it was merged with the Ministry of Regional Development and the EU Funds. In such a way, it mainly lost its role as the Government’s tool for coordinating strategic planning.

litical constellations<sup>58</sup> without sufficient participation of civil servants, citizens, civil society organizations, academia, experts, and other stakeholders. Political partisans' "innovations" are dominant, while evidence-based policies and learning from the past policies are highly neglected (comp. Petak, 2008: 449–451). Evaluation studies are missing.<sup>59</sup> In order to improve the situation, the Government adopted the Code of Practice on Consultation with the Interested Public in Procedures of Adopting Laws, Other Regulations and Policies in November 2009. The 2011 Regulatory Impact Assessments Act introduced obligatory public consultations for new regulations. Central Internet portal for public consultations has been functioning since spring of 2015. Only 48 laws and regulations ( $\frac{1}{3}$ ) underwent public consultations in the first year of application (2011), and 173 comments were received. In 2012, the number of regulations which were open for public consultation increased to 144 (4,786 comments received). The number increased further to 374 in 2013 (12,738 comments), 544 in 2014 (18,767 comments), and 608 in 2015 (15,411 comments). Other forms of stakeholders' influence and participation are working groups for the preparation of documents and regulations, consultative meetings, public discussions, etc. The Government's Office for Associations collects data about these forms, and also prepares structured annual reports. Some of the local governments have started to use public consultation in the preparation of local by-laws. What is still missing is improved possibility for citizens and other interested subjects to influence identification of public problems and agenda setting. Furthermore, what Petak, Bartlett and Bönker (2015) stated about participation of academic experts is valid generally: the citizen participation "is largely limited to the early phases of policy formulation, and does not extend to the final drafting of legislation, let alone the monitoring of implementation" (Petak et al., 2015: 20).

Public policies often reflect on **legal regulation**. In the beginning of the transition process, the preparation of regulations and law drafting had been

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58 Although since 2012 all government bodies prepare annual regulatory plans, there is a constantly decreasing rate of realization, from 37.6% in 2013 to only 10.7% in 2015, indicating the Government's fast changing political priorities (GLO, 2016).

59 For example, no systematic official or scientific evaluation of the 2001 Decentralization Reform has been carried out in the last 15 years, although it was one of the biggest intended public governance reforms in Croatia. Lack of evaluative approach has been explicitly recognized in the 2015–2020 Public Administration Development Strategy (Strategija, 2015: 5).

seen as pure mechanic registration of ideas of politicians or members of diverse interest groups. Although the role of legal professionals has improved, such practice continues until today. Law drafting is a complex task since each new regulation must be adequately placed within the constitutional and legal system, harmonized with the European *acquis* and other standards, written according to the principles and canons of legal technique, armed with efficient ways of application, etc. Their future impacts ought to be analysed (RIA – regulatory impact assessment). Unnecessary and obsolete laws and regulations must be eliminated, which requires a continuous attention of those who prepare new regulations (deregulation). In Croatia, the quality of law drafting is still not an issue which would attract attention outside the legal profession. After a scientific conference devoted to the state of legal system, the Academy of Legal Sciences in its Statement of 11 June 2014 warned about many deficiencies, problems, and “crisis of the Croatian legal system” after a decade of harmonization with the European standards. The Academy prepared and offered a project of improving the legal system and regulatory procedures to the Croatian Parliament but it has never been approved. Although the pursuit of better regulation is a part of general pro-reform public sector endeavours (comp. Musa, 2011), moderate success has been achieved only with regard to regulatory impact assessment. An attempt to promote deregulation can be noted but its results are rather limited. An ambitious project of regulatory guillotine (*Hitrorez*) started in 2006 with a significant support of international donors. The project was performed by the Government’s Special Unit for Simplification in cooperation with international experts. It lasted ten months after which the Unit made their recommendations. Several thousands of regulations were considered, but at the end only 706 of them were recommended to be abolished and 865 to be simplified, mostly those of minor importance. The Government formally accepted 1,571 recommendations, and established the Office for Regulatory Impact Assessment. After two years only, 366 recommendations were implemented (23.3%) and the new Office was abolished (Musa, 2011; Petek, 2009). The RIA Act adopted in 2011 designated this task to the Government Legislation Office. In addition to RIA, which has to encompass the assessment of impacts on the economy, socially sensitive and other groups with special interests and needs, and on the environment and sustainable development, the Government imposed



the obligation of assessing fiscal impacts of the new laws and regulations in 2011. In 2012, the Government adopted the Strategy of RIA and the Decree on RIA. Although the Legislative Plan requested that 61 laws out of 344 that underwent the legislative procedure in 2013 (17.7%) be accompanied by the RIA, the RIA was prepared for only 22 of them (6.4%), i.e. 33.4% of the laws planned for RIA procedure.<sup>60</sup>

- **Organization Problems**

Despite several reform attempts, state administration is still burdened with many structural and organizational problems. The criteria for establishment of ministries, other types of central state bodies and public agencies at the national level are non-existent. The State Administration Act is in both versions (1993; 2011) based on the traditional model of state administration with big ministries whose number depends on ever-changing political will and the needs of coalition parties, some other bodies and agencies whose position is neither clearly defined nor is a result of a sound policy. Functional review, as a prerequisite for a more rational organization, was conducted in approx. a half of the state administration system (without agency model) in the mid-2000s but its results have never been formally adopted or implemented. Only a minor number of recommendations have inspired certain reform efforts but some of them have not been implemented successfully. One of them is the recommendation to widen the competences, strengthen the capacity, and reorganize the first instance offices of state administration in order to transform them and their branch offices (91 of them) into one-stop shops well prepared for reliable, fast, and integral provision of administrative services to citizens. There was an attempt in that regard in 2014 which was politically blocked by a small coalition partner (IDS) at the beginning of 2015. Simultaneously, the number of deconcentrated branch offices of various ministries, other administrative bodies, and public agencies exploded, causing harmful and irreparable consequences for coordination in implementation of public policies and state regulations, administrative control, and accountabi-

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60 In his report, submitted on behalf of OECD-Sigma, based on 10 regulatory impact assessments analyses, Donelan (2014) stated the following: "None explained the problem to be addressed succinctly and none undertook a very satisfactory analysis of the costs or benefits of the different approaches. However, all of the RIAs undertaken followed the procedures laid down by the law. All made an effort to consider alternatives but quantification of alternative options were not addressed in a satisfactory manner." Low quality of assessments was also noted in Petak et al., 2015.

lity (comp. Koprić, 2015; for similar situation in Slovenia, see Kovač, 2014). There is a special problem with organizational fragmentation of inspections – they are organized in as many as in 60 administrative fields, half of them in the central bodies, a bit fewer in fragmented branch offices of central bodies, and only 3 in first instance offices of state administration.

The agency model still functions in a grey legal zone with huge institutional and organizational obscurity (see Musa, 2013). There is not any piece of legislation which regulates public agencies in general. Despite certain warnings from the OECD-Sigma and the World Bank about the overlapping competences between ministries and agencies, weak administrative coordination, lack of accountability and poor agency performance, the first attempt to regulate the basic issues and overall position of public agencies was initiated by the Ministry of Public Administration only in 2012. The Ministry instigated the preparation of the new State Administration Act which was to regulate not only traditional administrative bodies but also public agencies and other forms of performing state administrative tasks (delegation, outsourcing, public-private partnerships, etc.). However, except an agreement about the new concept among the respective expert working group, that legislative proposal has never been prepared. Because of the lack of establishment criteria, Croatia experienced mushrooming of public agencies during the Europeanization phase as well as other problems, such as coordination with other parts of the public sector, poor functioning, wastefulness, miserable relationships with citizens and societal environment, etc. Their streamlining is still an open issue.

The system of local self-government, suffering from conceptual inconsistencies and organizational problems, fails to deliver an equal level of quality public services in cost-efficient manner. Huge differences in size and capacity of local governments cause significant regional and local disparities and demographic problems (Koprić, 2014a). The fact that most of the local governments are either small or very small opens the issue of economy of scale in a dramatic way (Jambrač, 2016). Genuine regional governments have not been established, and counties function only as the second tier local governments, supplementing municipalities and towns with extremely weak capacities. Only a small number of towns, mainly large towns (those with more than 35,000 inhabitants), and several municipalities are able to perform their local tasks on their own. Since counties are too small and financially weak, they are

not able to support regional development, although this is one of their main constitutional tasks. Support to regional development is centralised with the Ministry of Regional Development and the central Agency of Regional Development as the main institutions. Beside them, two statistical regions have been established (Continental Croatia and Adriatic Croatia) as the NUTS II units. Low capacity of local governments to absorb money from the EU funds hinders local and regional development (Koprić, 2012; Koprić et al., 2014). On top of that, local governments have established about 4,300 forms of internal territorial decentralization (territorial committees, town districts, and city quarters) whose effectiveness in improving political participation of citizens is rather low (more in Koprić & Klarić, 2015).

- **Motivation Problems**

The problems of civil service motivation are evident from local to national levels. It is ruined by deep politicization, insufficient knowledge about and usage of motivation tools (see for example Bregm, 2008), deficient professionalism of the civil service, and non-existent system of education for public administration, and authoritarian and bureaucratic culture.<sup>61</sup>

**Deep politicization** is a continuous feature and one of the main problems of the Croatian civil service. The problem has usually been approached in a formal manner, through amendments to the Law and reshaping of the appointment procedure for managerial positions in public administration. One of the attempts was conducted in course of Europeanization under the pressure from the EU, when positions of assistant ministers, ministries' secretaries, deputy heads and assistant heads of the state administrative organizations, and some other positions in the Croatian state administration were "depoliticised"; on the grounds of the State Servants Act of 2005 political appointments in the period 2008–2011 were replaced with the public competition procedure. However, since the procedure remained completely in the Government's hands, and the professional and educational standards were diminishing, the real situation did not change significantly. In 2011, legal regulation changed once again, introducing stronger influence of politics on the appointments to managerial posts in state administration. Moreover, amen-

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61 Problems with motivation are not specific for Croatia. They are one of the public administration features in the Western Balkans, South Eastern Europe, and beyond (Koprić, 2009b; Koprić, 2012a; etc.).

dments to the State Servants Act in early 2012s introduced political advisors to the ministers. Although the Constitutional Court proclaimed these amendments unconstitutional at the end of 2015, similar regulation enabling employment of political advisors was once again proposed in spring 2016. Only political instability prevented reintroduction of this category into the Croatian state administration. Introduction of direct election of mayors in 2009 triggered legal innovations in local self-government system that introduced politicization of hitherto professional positions in local bureaucracy. The appointment procedure for managerial positions is only a pinnacle of the politicization problem in public administration. Much greater problems have been created by interfering of politics in everyday work of the civil service (even in individual administrative cases), open political activities of civil servants, etc.

Politicization discourages professionalism of civil servants and devastates tiny administrative capacities. Fast promotion of the obedient and politically privileged servants sends a negative motivational message to the others. Education and competence turn out to be less important. Political criteria have sometimes been imposed even in access to professional training. Sound, coherent, and full-scale educational system for typical administrative jobs and positions at all levels, from clerks who carry out the administrative procedure to public managers on highest positions does not exist (more in Koprić, 2013a; Marčetić et al., 2013). Classification of public administration studies within the category of vocational studies with continuous efforts to prevent public administration students from access to quality university studies causes long-term damage to the profession.<sup>62</sup> The cooperation of public administration with universities is weak, and the educational and research capacities of domestic administrative science have not been used. Many domestic and technical assistance projects have ended up without any impact on practice. The situation regarding competence and professional standards is not good in the state administration, and is even worse in local self-government. In-service system is developing with moderate success. Instead of insisting on the quality and effectiveness of civil servants, the public discussion is focused on

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62 One of the most grotesque haps in the field is the Constitutional Court decision of 2016 initiated by the University of Zagreb, which prevents access of public administration students to postgraduate studies (after a five-year study), even to postgraduate studies in public administration.

their number and salaries.<sup>63</sup> Human potential development and management system are developing slowly.

The **administrative culture** is predominantly of an authoritarian and bureaucratic type (Koprić, 1999; Koprić, 2009b). It is still based on the climate of formalism, secrecy, obedience, resistance to changes, and evasion of responsibilities. Top-down approach without the initiative and innovation of civil servants cannot be a driving force of administrative modernization. In addition, governments that do not have partnership with citizens are an anachronistic deviation from the good governance concept.<sup>64</sup> Efforts to improve openness and transparency have changed the situation. Croatia became a member of the global Open Government Partnership Initiative in 2011. Both the National OGP Council and the first ever Public Information Commissioner, appointed in 2013, have developed a lot of activities undertaken to fight against corruption as well as to open public administration and make its functioning more transparent.<sup>65</sup>

- **Implementation Problems**

The implementation of public policies is burdened by remaining unsolved problems of legality, ethical problems, bureaucratic resistances, and inadequate managerialism. Even the introduction of e-governance, which serves as an anchor of reliable, efficient, and effective implementation, carries the risks of petrification of administrative structures which still have not been rationalised. Sometimes the quality of information and communication equipment procured is questionable as well as the quality of software, which is expensive and often prepared without sufficient knowledge about adminis-

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63 However, low salaries and poor remuneration are a real problem in most of the countries in the region, including Croatia. Civil servants and HRM managers perceive it as one of the two or three most serious problems (Koprić, 2009b).

64 Previous Croatian Ombudsman had continuous problems with the Croatian Government and the Parliament majority because he did not hesitate to criticize the members of the Government, and stress the problems of politicization, corruption, lack of competence, and others. His annual reports for 2007 and 2008 were not accepted by the Parliament. Consequently, his position was undermined by the establishment of other, specialised ombudsmen (for disabled persons, for gender equality, and for children), by squeezing finances, not resolving problems with basic facilities, etc. (Pravobranitelj, 2009: 112–115).

65 Despite these efforts and achievements, the IRM Progress Report for 2014–2015 states: “While significant progress was made in implementing the anti-corruption strategy and improving transparency processes in key sectors, access to information and open data reforms stalled due to a lack of political will.” (IRM Progress Report, 2016: 2).

trative processes. On top of that, interoperability and digital divide are very important and present poorly resolved issues.

Legal standards, i.e. **the rule of law**, begin at the level of legislation and continue to the level of implementation. Laws must be based upon the Constitution, and ratified international treaties harmonised with one another and correct in a procedural sense. The EU law ought to be implemented and respected. The laws have to provide legal predictability and certainty. Moreover, they have to be derived from the basic principles of contemporary democratic state, such as the principle of subsidiarity, respect of human rights, protection of minorities, etc. Secondary legislation must be in conformity with the Constitution and laws. Local by-laws must not infringe higher laws and regulations. Activities, decisions, and acts of all state bodies in concrete cases must be based on state regulations in the substantial, organizational, and procedural sense. Local bodies must respect not only state regulations but also those adopted by the local representative bodies. Arbitrariness is not allowed to either state or local officials and servants. The problems concerning legality of Croatian public administration are based on legal inconsistencies, modest quality of laws, and secondary legislation, partially outdated regulations, various meta-legal influences, weaknesses in legal control, low court capacities, and underdeveloped ethical and professional standards in implementation of regulations. The EU accession brought new problems, since the *acquis communautaire* is highly complex, and its implementation is a very demanding task (Koprić et al., 2012; Koprić, 2014).

The **ethical dimension** has usually been highlighted through various claims about corruption within public administration.<sup>66</sup> Corruption at higher, political levels is the most dangerous type of corruption. Corruption at the level of civil servants is also dangerous, the more dangerous the higher their positions are. If corruption existed only at lower positions, it would be relatively easy to eradicate it by measures taken by the repressive machinery – the police, General Attorney's Office, and similar bodies as well as courts. The perception is that corruption in Croatia is rather widespread, although anti-corruption efforts have produced moderately positive results. Several criminal charges of top politicians at the central, regional, and local levels are signs of

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66 In the mentioned regional research, this is the opinion of 68 respondents (48.6%). At the same time, only 30 of them (21.4%) consider corruption as not so serious problem, while further 42 respondents (30%) see medium importance of the corruption problem (Koprić, 2009b).

strong fight against corruption. Anti-corruption measures are predominantly of normative and institutional nature but the control system is not very efficient (Koprić et al., 2016). Moreover, the commitment of high state officials to act impartially and in the long-term public interest is not clear enough. Little has been done through education and training, although strengthening of professional standards is firmly connected with education and the adoption of proper ethical standards. Numerous local units, overlapping competences, and very complicated structure of deconcentrated state administration open space for unethical behaviour. It seems that ethical problems are even worse at the local level (comp. Kregar et al., 2016; Marčetić, 2013).<sup>67</sup>

There is a strong resistance to changes and modernization of public administration among higher professionals. Unnecessary formalism, sticking to petrified practices, rejecting innovations in procedures and techniques, best practices and European standards, and resistance to administrative simplification are some examples of frequently observed **bureaucratic resistances**. They are partly supported by the conservative groups within the academic community.

A wrong type of **managerialism** has shown up as a peculiar answer to bureaucratic resistances. The idea that the public sector is in no way different from the private one, and that it is desirable to manage it in exactly the same way has become very popular among certain groups of actors. In order to realise that idea, managers from the private sector, banks, large private compa-

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67 The first Ethical Codex for state servants was adopted by the Government in 2006, and was amended in 2008. The Ethical Commission started to function in May 2009. Associate professor Gordana Marčetić from the Faculty of Law in Zagreb was elected president. A new Ethical Code of Civil Service was adopted in 2011. Citizens can report breaking of ethical standards in the civil service to the Department for Ethics in the Ministry of Administration but there were only 77 complaints with regard to ethical standards of state servants in 2008 and 2009 initiated through this Department. In addition, there were 296 commissioners for ethics appointed in state bodies in 2010 (data on the situation at the beginning of June 2010). As many as 355 ethical complaints were submitted in 2008. Only 2 civil servants have been fired on that grounds, and in 18 additional cases serious penalties have been imposed. In sum, disciplinary penalties have been imposed in only 20 cases, counting for only 5.6% of the reported ethical cases. Only 0.03% of civil servants have been sentenced for ethical offences. As many as 416 complaints were submitted to these commissioners in various administrative bodies in 2009 (an increase of 17% in comparison to 2008). In 356 cases it was decided that complaints were not firmly grounded, in 19 cases disciplinary responsibility was initiated, and in 41 cases the procedures have not been completed yet. The number of submitted complaints was 275 in 2010, 272 in 2011, 492 in 2013, and 477 in 2014 (data for certain years are not available).

nies, etc., have been appointed to or employed in public administration. Similarly, a claim that there are no well-educated people for public administration has been overemphasized. However, at the same time, the initiatives for establishing a high-quality university education for public administration have been systematically suppressed, ignored, and actively undermined in specific arrangements with the conservative groups within the academic community. The fluctuation between the private and public sectors is the most intensive at the level of high-ranking state servants and officials. The fact that it is a matter of a very dangerous conflict of interest capturing the state within the network of private interests and influences has been neglected. The danger lies in the fact that public administration can become an instrument of powerful private sector companies instead of being in service of the community and citizens.

#### 9.3.4. Reform Concepts and Processes

The South-Eastern European countries emerged on the territory of the former Yugoslavia have shown some common governance characteristics which may be explained by the notion of **muddled governance**. Muddled governance is a governance type “with strong reliance on classical government with weak forms of inter-jurisdictional and third-party governance that arise when not very clear European ideas about public administration reform flow into shrinking domestic ideas on governance.” Apart from Europeanization and modernization, the framework for the development of such governance includes search for national identities and regional cooperation and learning process based on the common tradition developed during 70 years spent within the first and second Yugoslavia, and facilitated by speaking similar languages. Strengthening the political legitimacy, modernization of human potentials development and management, and improving legal protection of citizens in their relations with the state are the three basic common governance processes in South Eastern Europe (more in Koprić, 2012a).

However, the situation is not the same in each country on the territory of the former Yugoslavia. Firstly, there is a significant part of their histories that divides the two groups of countries according to the prevailing historical influences on their administrative institutions (Habsburg, i.e. Austro-Hungarian and Ottoman). Secondly, the development in the post-1990 period has followed different paths. Croatian situation is peculiar because of the rebel-



lion, aggression, and war in the most sensitive period after dissolution of the former Yugoslavia. Moreover, in the very beginning the rebellion relied on the formal competences of strong communes inherited from socialist times. Parallel with these dramatic and profound changes, non-transparent, politically influenced, and harsh privatization of the former social ownership occurred causing divided but predominantly bitter feelings about the role of the private sector. Such circumstances led towards the development of new social and political cleavages; dismantling strong local governments, centralization, etatization, building hierarchical structures of state government, and political authoritarianism. After some time the situation called for changes, and influenced main administrative reform processes and concepts.

- **Decentralization and Democratization**

Historical reminiscences of the communes as powerful local governments with substantial decision-making autonomy, very wide scope of affairs, and high financial share in public revenues and expenditures were still vivid during the 1990s. Until 1990, communes had been able to ensure the whole life circle, meaning almost all public services, social welfare, employment possibilities, cheap housing, leisure, etc., with formally high level of citizens and workers' political participation (Koprić et al., 2016a).

Decentralization claims were rather strong at the end of the 1990s. The basis for the construction of a decentralization strategy was professionally elaborated in the project *Legislative Frameworks for Decentralization in Croatia* (1999–2000). Although its results (published in Koprić, 2003a) inspired the Government's reform efforts, that project had never been translated into an official decentralization strategy. Similar destiny hit another large project, *Decentralization of Public Administration*, financed by the Open Society and the Croatian Government in 2000–2003. Its results were not adopted by the Government either.

Simultaneously, the Government's Programme for the period 2000–2004 offered firm political basis for decentralization, announcing wide decentralization, strengthening of local autonomy, especially that of large cities, introduction of general clause and subsidiarity principle, increase of financial autonomy of local governments, and possible and gradual territorial reform (Program VRH, 2000). Decentralization was perceived not only as an instrument of strengthening local autonomy but also as a prerequisite for further democratization of

society and abandoning nationalistic politics of the 1990s. Decentralization policy guided the Constitutional amendments of 2000 and amendments of the general local self-government legislation of 2001. After the adoption of new general legislation on local and county self-government in April 2001, several sectoral laws created fresh legal foundations for decentralization in four policy areas: education (primary and secondary), health, social care, and firefighting.

However, because of the fragmented structure and low capacities, only the counties and 33 towns were able to take over these services. A significant part of finances for these services was ensured by the central budget. These 33 towns represented only 6% of all local governments in Croatia, indicating that local budgets were rather weak and unable to endure the burden of decentralization. Subsequent Croatian governments have also, at least formally, committed themselves to decentralization and indicated some reform directions.<sup>68</sup> The only result in later period was the design of large towns, i.e. those with more than 35,000 inhabitants, by the legislative changes in 2005 which were entrusted with only two additional public tasks: 1) maintenance of public roads, and 2) issuing building permits and other documents necessary for the construction and implementation of spatial planning documents.

Because of weak local capacities, after decentralization attempts in 2001 and 2005, further decentralization efforts have refocused from widening local responsibilities and autonomy to the promotion of citizens' political participation at the local level. The new orientation was conducted mainly in incremental manner. Legislation was changed several times to attract the interest of citizens to local participatory institutions, such as referendum, citizens' initiative, sub-municipal councils, occasional consultative meetings, youth councils, public consultations, national minorities' councils, etc. Direct election of mayors was introduced as a major innovation in 2009, with a possibility to recall the new, more powerful local executive officials (Koprić & Klarić, 2015; Koprić & Vukojičić Tomić, 2013; Koprić, 2012: 34–35; Koprić, 2009).

- **Building Transparent and Open Public Administration**

Effort to build open and transparent public administration has been one of the main reform processes in Croatia, which was, to a large degree,

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68 During this time, several technical assistance projects were financed by the EU and other international donors. They were also intended to support further decentralization steps (CARDS, 2007; Mikelsons, 2007).

facilitated by the harmonization with the EU standards and fuelled by the conceptual considerations about good governance. Transparency means making public data and information accessible to the public by efforts of public bodies, while openness means enabling citizens' feedback, comments, proposals, and criticism (comp. Musa, 2011). Although the prevailing purpose of transparency and openness is fostering citizens' participation in public life, other purposes are also important, such as protecting the rights of the citizens in their relations with public bodies, strengthening control of public administration, reuse of open data gathered by the public bodies in other sectors (economy, etc.), and others.

The first Croatian Right to Access Information Act was adopted at the end of 2003, and was amended in 2010. The right to access public sector information was proclaimed a constitutional right by the Constitutional Amendments of 2010. A number of cases initiated on citizens' request have been more or less constant after the first high wave. The highest number of requests was in 2004 – 19,600. There were 4,499 requests in 2005, 4,357 in 2006, 3,670 in 2007, 2,730 in 2008, and 3,173 in 2009, 12,340 in 2010, 51,930 in 2011, 53,521 in 2012, 24,330 in 2013, 21,078 in 2014, and 18,007 in 2015.

A new step in developing transparent public administration was made by the appointment of the first Croatian Public Information Commissioner in 2013. The Commissioner has a task to provide legal protection of the right to public sector information and reuse of such information (open data), and monitor and promote these rights. In one of her reports (23 September 2014), Public Information Commissioner, Anamarija Musa, stressed that the largest number of appeals have been submitted because of the silence of administration (practice of not responding to the citizens' requests for public information), and that only 15% of appeals are refused, which means that 85% of appeals have firm legal grounds. The number of requests for usage of open data is rather low, witnessing that the usage of such data for economic and other purposes in Croatia is at the very beginning.

According to the 2015 Report, in the newly established Registry of Public Bodies there were data about 6,045 bodies and about 4,425 information officers in such bodies. At the beginning of 2016, an Internet application was established for reporting of all public bodies about their realization of right to public information. By mid-February 2016 as many as 4,539 public bodies

submitted their reports. However, there were 23.6% of public bodies that resisted reporting, and about 20% of bodies have never appointed their information officers. In 2015, the mentioned 4,539 bodies received 18,007 requests for public information and 898 requests for reuse of public information. Public bodies have replied positively to almost 85% of requests, mostly within legal deadlines (Izvješće, 2016).

Improvements indicate better effectiveness of the institutional framework for public sector transparency, upgraded preconditions for access to public sector information (better design of websites, easier Internet access, better structured information, etc.), and stronger trust in the public sector. Continuous efforts and measures to plan and support realization of e-government, e-administration, and open government concepts have also contributed to transparent and open public administration.

#### Introducing Modern Human Potential Development and Management

Human resource management (HRM) as a new, modern concept connected with the new public management doctrine tends to replace the traditional, more Weberian-like, public personnel concept. The accent of HRM concept is on flexibility and managerial discretion, decentralization and/or devolution in managing civil service structures, pay for performance, performance measurement and performance management, greater flexibility in civil service law, “normalization” or even abolishment of special civil service status, application of regular labor law to civil servants, shrinking civil service, etc. Human potentials development is a kind of softer approach to human capital in the public sector which is more oriented to the development of skills, competences, and knowledge of the civil servants, to proper use of their talents, training and education, improvement of organizational culture, etc. Human potentials development is used to express the standpoint according to which people in the public sector are worth developing and are not “pure bureaucrats”, while HRM implicates that people in the public service are mostly a passive organizational element that should be connected with other elements, such as financial and material resources and the like, for results to be produced. Both approaches may be combined in order to avoid their main obstacles.

Despite the lack of a really well-informed debate, except in academia, and some inconclusiveness in legal regulation, Croatia has opted for human potentials development model shyly enriched with several elements of HRM

concept. Elements of the traditional concept of personnel administration have persisted as well (Marčetić & Musa, 2013). The situation is similar in the whole region of South Eastern Europe, probably because such a civil service model has been advocated by the OECD-Sigma which is in charge of assessing various elements of public administration reforms in the accessing countries. Regional cooperation in the civil service field, promoted through the Regional School of Public Administration (ReSPA) and the Western Balkan Human Resources Management Community of Practitioners (WB HRM CoP) has also contributed to that. If common administrative tradition is taken into account, it is not surprising that both the problems and the prospects for improvement in whole region are very similar (Koprić, 2012a; 36–38; Koprić, 2009b; Koprić, 2010).

The State Servants Act of 2005 provided for a more modern civil service practice. The Ministry of Public Administration is the main competent body. Job analysis is one of the most complex tasks performed on the basis of that Act with numerous problems, misunderstandings and resistances (Ratković, 2008). Work plans are still not common in administrative organizations. Performance measurement has been regulated but it still does not function properly. Pay for performance has never started to function neither at the national nor at the local levels because of the tight budgetary framework and lack of political will (Manojlović, 2016). Strategic approach towards development of civil service was promoted by the Strategy of Human Potentials Development in Public Administration for the period 2010–2013. The new registry of civil servants has been established recently, including state, local, and public servants. Annual personnel planning, new public administration ethics system (comp. fn. 35), and system of in-service training are the main three novelties which can be positively assessed.

Central state institution for in-service training started to function in June 2005. It operated as the Civil Servants' Training Centre within the Central State Office for Public Administration (until 2009) and the Ministry of Public Administration (from 2009 until 2011) when it was merged with the Academy of Local Democracy into a new institution called the State School for Public Administration. During 8 years, these institutions performed 1,075 training programs with 46,758 civil servants participating in them (Bošnjaković, 2015). Along with that, many training programs have been organized

by other institutions, such as the Diplomatic Academy, Judicial Academy, Tax Administration, Customs, Ministry of Regional Development, etc.

### Reforming Administrative Procedures and Strengthening Legal Protection of Citizens

There was a long tradition of general administrative procedural law and court control over public administration in the former Yugoslav territory. They were the components of the system of legal protection of citizens. Such a system was a complex and interdependent group of legally regulated institutions which consists of procedural protection within public administration, national and international court control over administrative acts and actions, court protection of constitutional rights (mostly in the constitutional courts), ombudsman protection, guarantees of open access to public sector information, protection of human rights and fundamental freedoms (the European Court of Human Rights in Strasbourg, etc.), and some others. All the countries on the territory of the former Yugoslavia took over the Yugoslav General Administrative Procedures Act (GAPA), which was a federal law, in the beginning of the 1990s. During the 2000s, almost all of them amended their general administrative procedural laws, and started to prepare new ones (see more details in Koprić et al., 2016b).

The Yugoslav GAPA was known as the longest administrative procedural law. It offered fairly good protection of citizens' rights. It guaranteed the right to appeal and the right to be heard; it offered several other procedural guarantees; established duties of state bodies to find out true facts; equip an administrative act with written explanation of grounds and deliver it to the concerned party(ies); etc. However, it was casuistic, court-imitating, and too complex, with many possibilities for ministries, state prosecutor's office, and other central state bodies to intervene in the final administrative act. Because of the underdeveloped administrative justice system, it was possible for administrative practice to neglect certain procedural rules and guarantees, and weaken the protection of citizens.

Real modernization of administrative procedural regulation started in the second half of the 2000s, with Croatia as a forerunner, under strong European influence and with expert assistance of the OECD-Sigma. Better legal protection of citizens' rights, simplification of administrative procedure, regulation of modern information and communication technology usage in

the procedure, and better efficiency of procedures are among the main goals of current administrative procedural reform efforts in South Eastern Europe.

Changes of general administrative procedures simultaneously enable and call for changes in the administrative justice systems. If court supervision of administrative actions becomes more effective, there is more room for designing administrative procedures to be much faster and efficient in issuing decisions in individual administrative cases. Ratification of the European Convention of Human Rights and Fundamental Freedoms (ECHR), judicature of the European Court of Human Rights, and spreading of the common European model of administrative justice (Woehrling, 2006; Winkler, 2007) are the main reasons for current reforms of administrative justice in many countries. The standards from Article 6 of the European Convention of Human Rights and Fundamental Freedoms (ECHR) require a two-tier system of administrative justice with administrative dispute of full jurisdiction, public hearing, right to appeal to the higher court, and protection of issuing administrative decisions within a reasonable time.

The Croatian Parliament enacted the new General Administrative Procedures Act in 2009 and the new Act on Administrative Disputes in 2010. The former entered into force on 1 January 2010 and the latter on 1 January 2012. Since then, the system of administrative justice has been organized as a two-tier system with four administrative courts of first instance (in Zagreb, Split, Rijeka, and Osijek), and the High Administrative Court which decides, in principle, on the appeals filed against first instance administrative court decisions. Despite certain criticism which raises the issue of hesitating modernization (Koprić, 2009a; Đulabić, 2009), there is no doubt that Croatia is well on the reform path in the field of legal protection of citizens in their relations with public administration.<sup>69</sup>

- **Experimenting with Public Management**

Solutions from the new public management repertoire are springing up here and there. The Croatian public administration displays a whole range of reform measures, from privatization and liberalization, through establishment of public agencies, to performance and quality management. However, the importance, frequency, and success of such measures are very different.

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<sup>69</sup> Croatia was the first republic of socialist Yugoslavia which established a separate Administrative Court in 1977, forerunning in that regard even during the socialist period.

One of the persistently pronounced measures is privatization. Privatization and liberalization with increasing role of private sector providers, even multinational ones, have not been a reform measure pertaining only to the services of general economic interest (telecommunications, postal service, energy supply, transport, highway construction and management, etc.) but also in healthcare, eldercare, education, communal utilities, pension system, culture, and the similar. There is a wide variety of forms for including private sector subjects in the provision of services, such as concessions and delegation to private sector subjects, public procurement of services, outsourcing, public-private partnerships, etc. (comp. Koprić et al., 2016a). However, the 2014 attempt to outsource supplementary and technical services in public administration was not successful. Although the Government prepared a sound plan of outsourcing cleaning, technical jobs, washing, ironing, preparation of food and drinks, transport, and protection of facilities for which there were some 26,500 employees in state-financed public bodies and institutions, the plan was not successfully implemented. A large number of trade unions (17) initiated a referendum against the plan and collected 624,000 citizens' signatures. Under such pressure, the Government withdrew its plan. The bombastically announced policy of public-private partnership had a similar destiny. After the adoption of the Guidelines for Application of Contractual Forms of Public-Private Partnerships by both the Government and the Parliament in 2006, and a strong political push in that direction, the number of such partnerships has remained rather small (18 approved and registered projects until 2015).

Apart from the agency model at the national level, public agencies have also been sprouting at the county and local levels. They are mainly established in the development (economic, regional, and rural) and energy sectors, and some other sectors are represented as well. At the end of the 2000s, Musa found about 40 agencies at the sub-national level established during the Europeanization process (Musa, 2014: 474–480). Along with the companies for delivery of utility services, local governments and counties currently own almost 400 companies established for different purposes (economic development, radio broadcasting, sport infrastructure, culture, etc.) (Koprić et al., 2016a). In 2016, the number of entities called “agency” and established by the local governments and counties in the Registry of Public Bodies of the Public Information Commissioner is 56. The total number of public institutions es-



established by sub-national governments in the same registry is 2,471; there are also 675 companies, 694 associations, and 4 foundations.

Performance and quality management practice is not well developed, but there are some positive cases and trends. Although the establishment of public agencies asks for performance management mechanisms, such practice is almost non-existent, and the main accountability tool is the agency report. An empirical research conducted in 2014 shows that when performance is measured what is actually measured are outputs, while impacts, quality, and cost-effectiveness are neglected dimensions with quality as the most neglected one. Performance measurement is rather rare but more frequent at the national level than at the local level (Manojlović, 2014: 250–253). Even worse results were shown in another research conducted in 2013 with regard to quality management as only 38 out of 128 towns (about 30%) reported usage of some quality improvement instrument. Their number has increased to 41 in 2016. There is no legal obligation for public bodies to use such instruments. There is some evidence that simple quality improvement instruments are employed at the national level but the best instruments are almost not known – there are only 4 national administrative organizations and 1 town registered as interested for application of the Common Assessment Framework (Džinić, 2014; Džinić & Manojlović, 2016; Musa, 2016).

### **9.3.5. Future of Croatian Public Administration: Modernization, Inertia, or Decline**

Croatia is on the track of modernising its public administration. Modernization of the Croatian public administration is knitted by doctrinal influences of new public management and good governance, and fuelled by the EU conditionality policy. The EU inspires the waves of administrative reform in doctrinally inconclusive manner, combining the elements of good governance with clear liberal policy in certain sectors and issues, and with the elements of public management model. The influence of the OECD-Sigma employed by the European Commission in assessing the capacity of public administration to effectively implement *acquis communautaire* is also visible in Croatia. The OECD-Sigma has been a proponent of moderate modernization but only after completion of the Weberian public administration model. Despite huge steps in consolidating and codifying of the European administrative stan-

dards during last two decades, it is still not completely clear what the elements of “European model of public administration” really are. In any case, the EU leaves much room for domestic political priorities.

Post-socialist transition has coincided with spreading of the new public management doctrine throughout the world. The new public management requires more freedom in decision-making of public managers. Since many administrative positions have been filled with politically influenced persons, freer decision-making opportunities in reality mean additional space for politicization of public administration, not necessarily for better management. That is why public management in post-socialist societies, lacking properly educated public managers and civil servants, very often enables further and deeper politicization.

In such circumstances, the Croatian public administration reform has been conducted in a patchy manner, although continuously under the notion of Europeanization. Dominant politics has had a decisive role, while professionals and academia have been neglected. The basic principles of European good governance model and European Administrative Space have been widely accepted. Citizens and civil society have some influence on the processes as well. What may also be concluded from the previous analysis is that a major part of dominant concepts is connected with good governance model: decentralization, political legitimacy, and democratization; transparency, openness, and participation; better regulation and legal protection of citizens; and human potential development and management.

Despite continuous efforts of domestic business community and well-known international organizations (World Bank, International Monetary Fund, etc.) hard neoliberal reform measures, such as shrinking of the public sector, dismantling the welfare institutions, imposing savings and budgetary cuts, privatization or normalization of the civil service, have not been accepted by domestic political actors, at least not in their radical forms. Other elements of public management model have been widely accepted but only moderately realized. Instead of building a consistent public management model, Croatia has experimented with public management instruments. Although privatization is one of the most popular concepts, Croatia has still a relatively big and strong public sector. Resistance to public-private partnerships or outsourcing is still strong. Certain reform steps have been made, such as re-

gulation of more flexible civil service arrangements, introduction of internal financial control and external review, competition and public procurements, charging real prices of public services, etc.

Having in mind that Croatia is a latecomer to real democratization and the EU accession with a decade of delay in comparison with other post-socialist countries which have joined the EU, mainly because of the war and consequent authoritarianism, it can be concluded that public governance situation is precarious. At least two scenarios are possible, an optimistic and a pessimistic one. External circumstances can be decisive. Global recovery of the economy, smooth development of European integration, positive resolution of current conflicts can become grounds for the realization of the optimistic scenario. A new economic crisis, institutional crisis of the EU, deadly terrorism, and massive migrations can lead to the realization of the pessimistic scenario. A number of domestic circumstances, which can lead in at least three directions, can be added to this mixture:

- These complex circumstances can direct the Croatian public administration towards more conceptually straight *modernization*,
- They can leave it on the path of *hesitant development*, which means random and patchy changes dependent on accidental ideas of influential domestic actors, bureaucratic hesitations, or pressures of dominant foreign organizations, or
- They can push the country to the path of *chaotic institutional decline*.

While the first direction is the most desirable, the last one seems the least probable. However, from the Croatian standpoint, for the reform to be more successful it is necessary to further clarify and make a sounder professional basis of the reform concepts and measures.

#### 9.4. Conclusion

The basic components of the Croatian public administration were established in the beginning of the 1990s in parallel with the processes of democratic transition, managing independence, and transformation of the former social ownership. Rebellion and aggression followed by the four-year war had many unfavorable economic, social, political, administrative, and other consequences. Democratization, decentralization, and Europeanization of the country were delayed to the beginning of the 2000s. During the Europe-

anization phase, Croatia started to change its traditional Weberian model of public administration by incorporating and developing the elements of good governance model. Then, at the end of the 2000s, the modernization phase started, although some signs of modernization could be found even before.

Although the accession to the EU was a widely accepted goal, Europeanization of the country's public administration, in the sense of accepting European standards, was patchy. Croatia defended what was proclaimed as the elements of its national model of public administration in many cases, claiming they are part of its tradition, even when it was obvious that accepting the European standards would have improved situation in some relevant regards. In addition, the situation with administrative modernization is a bit disappointing, because in spite of a relatively broad and persuasive modernization narrative, the real road to modernization has been rather bumpy.

Public administration reform in Croatia has been a component of wider societal changes of post-socialist transition. The post-socialist transition is a complex systemic transformation – much more complex than previous democratic transitions in South Western Europe (Spain, Portugal), Latin America, and other parts of the world, as the span of the transition process is wider. Previous transitions were focused on democratization, while the post-socialist transition tackled almost every aspect of social life. That makes the administrative changes and reforms of public administration even more demanding, complex, and harder to be achieved than they have been in other countries. Many processes have to be steered in parallel with public administration reform while, at the same time, many decisive circumstances are hardly controllable. In such conditions political and societal attention as well as the efforts of the whole community could not be concentrated only on the administrative problems and their resolution, because other urgent problems also needed to be addressed, some of them even before the administrative ones. Finally, the political system has not been stabilized which significantly undermines its ability to choose the agreed reform concept and its capacity to steer the public administration reform.

Additionally, similar to some other transitional countries, Croatia faced the issue of managing state independence which itself is neither an easy nor a simple task. On top of that, due to particularities of soft-socialism in the

former Yugoslavia, a radical break up with the inherited institutions was not seen as the prerequisite for successful transition. Such conceptual thinking prevented radical administrative reforms and caused bureaucratic inertia in many regards. New political and social elites did not intend to break up with the inherited public administration but only to conquer and capture it. Once they had succeeded, they became interested in preserving, not in reforming it.

The size of the public sector, its history, administrative tradition, and other administrative particularities in combination with the existence of a number of relatively influential trade unions do not encourage deep administrative reforms. Internal bureaucratic resistance to changes is quite a normal phenomenon.

This has to be analysed in connection with a relatively low capacity of society to accept the changes since tradition and normal inclination towards stabilization anchor societies, and allow mainly slow and incremental changes. There was additional and strong exertion of this capacity caused by the huge task of Europeanization. The process of Europeanization started in a top-down manner only a few years after the war which, in some parts, officially ended only in January 1998 when the UN Transitional Administration in Eastern Slavonia, Baranja and Western Sirmium was replaced by the Croatian institutions. It is not to be expected that a country whose battle for independence was so long, bloody, and difficult would easily and without any resistance accept many new compromises imposed during formal Europeanization by means of the EU conditionality policy.

All of these circumstances in the societal environment show that the particularities of public administration reform in post-socialist countries can be explained only if the theory of transition is taken into account. However, since the logics of big systems and institutional development have to be taken into account, the neo-institutional theory, system theory, and organizational theory also need be consulted in order to build a complex, composite theoretical frame for understanding, researching, and explaining public administration reform in post-socialist countries. However, it is too ambitious to think that a theory of administrative reform in the post-socialist world may be easily developed (comp. Caiden, 1969/2009).

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## 10. Public Administration Reform in Romania after 25 Years

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*Călin Emilian Hînțea, Tudor Cristian Țiclău*

### 10.1. Introduction

This chapter aims to offer an overview on the specifics of Public Administration reform (PAR) introduced in the last 25 years in Romania. Although changes have been rather slow, the public administration is significantly different than the system inherited after the 1989 Revolution. This chapter is structured in 5 sections: the first section offers general information about the political and administrative system; the second section is focused on the main elements of reform – crucial factors influencing pace and impact of change, specifics of PAR in Romania and some considerations on where the system is headed; the third section discusses the specifics of the civil service, including the issues of autonomy, decentralization, budgeting and major problems and challenges; finally, the chapter ends with a set of general conclusions. We have used the term public administration in a broad sense referring to both central and local government but we do not include state-owned companies here (as they are referred specifically as such). With regard to agencies, we refer to public authority bodies that are directly subordinated to the central government (executive).

### 10.2. General Information about Romania's Public Administration

Romania is a semi-presidential republic,<sup>70</sup> organized in accordance with the separation of the main three powers: legislative, executive, and judiciary. The *legislative power* is represented by the national Parliament (bicameral – Senate and Chamber of Deputies), members being elected through a list vo-

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70 Semi-presidential character is given by relative power of the President who is directly elected and designates the Prime Minister. The President also heads external policy matters, and has “the power of appointment” for several high level judicial positions (but this is part of a more complex procedures involving other state powers).

te.<sup>71</sup> *The judiciary* is represented by the High Court of Cassation and Justice and is built on a three-tier level: local courts, county courts, and courts of appeal. Constitutional matters are dealt separately by the Constitutional Court (CC), which is the main and only authority in matters concerning the fundamental law. The CC is made up of 9 judges who are politically appointed by the Chamber of Deputies (3), Senate (3), and the President (3). *The executive power* is split between the President and the Prime Minister. **The President** is directly elected for a five-year mandate, for a period of max. two mandates. Main responsibilities refer to foreign relations (foreign policy), national defense (head of army), ensuring Constitutional compliance and mediator role between state powers. **The Government**, headed by the Prime Minister (PM), is concerned with general domestic policy. The PM is nominated by the President, while the Government is voted into office through a majority (confidence) vote in the Parliament, thus making it politically accountable to the legislative. The *central public administration* is made up of the central government (headed by the PM), executive central agencies (headed by secretary of states in most cases, and directly subordinated to the central government), and other autonomous central agencies (that are part of the central administration but are not directly subordinated to the government – e.g. Ombudsman, National Bank, Supreme Council for Defence – but are accountable in most cases to the legislative and usually have regulatory powers). The central government is represented locally by *deconcentrated public services* which are governmental branches of each ministry organized locally along with a Prefect,<sup>72</sup> and named by the Prime Minister in each of the 41 counties and the capital Bucharest. Local public administration is two-tier, currently divided into county and local (town, city), structures. Starting from 2004, the Prefect is part of the general body of Senior Civil Servants. Mayors are elected directly in a one round ballot, while for Local and County Councils, members

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71 Between 2008 and 2016, the MPs were elected through direct uninominal vote; electoral law has changed in 2016, reversing back to a list system, used between 1990–2008. For local public administration, mayors are elected through a majority system in one round winner takes all, while for councils (local, county) the list system is used. At the county level, Presidents of County Councils are elected by the members of the Council (previously were directly elected by the citizens). This shift increases political party control over the Council (through the use of a list and by indirect vote for the President of the County Council).

72 Local administration structure is mainly inspired by the French system with a Prefect representing the government and heading local “deconcentrated/devoluted” services of the central Ministries.

are elected based on a party list. The members of the Council elect the president of the County Councils. These entities have administrative and financial autonomy,<sup>73</sup> but no political autonomy. The Mayor and the President of the County Council represent the executive power, while the Local and County Councils are the local legislative bodies. Starting with 2004 (Law 315/2004), the 41 counties and the capital of Bucharest were divided up into 8 development regions (NUTS II level). The regions (made up of voluntary association of counties) represent a territorial unit relevant in the framework of regional development policy in Romania. The regional structures are *Regional Development Council* (consultative structures made of representative county authorities,<sup>74</sup> whose main responsibility is coordinating and monitoring of regional policy development) and *Regional Development Agencies* (public, non-profit, non-governmental legal entities responsible for drafting regional development plans and implementation of regional development policies). Both of the two bodies do not have a legal personality.<sup>75</sup>

### 10.3. PAR in Romania. Challenges and Changes

In this section,<sup>76</sup> we discuss the major reforms that the Romanian administrative system went through in the last 25 years. The focus is on the factors had a substantial impact on both the pace and impact of reform (including specific country elements). We try to link the changes to the broader theoretical framework of NPM/NWS/NPG (New Public Management (NPM), Neo-Weberian State (NWS), New Public Governance (NPG)) as defined by Pollitt and Bouckaert (2011).

Public administration reform in Romania should not be understood through a linear logic. It is comprised of a series of reform sequences that are intertwined and form a complex administrative framework, difficult to understand and analyze through a *traditional approach*. A traditional approach

73 Law 215/2001 established 5 major principles upon which local public administration is organized and functions.

74 Prefect, County Councils, deconcentrated public services, academic institutions, social and economic stakeholders.

75 Source: ec.europa.eu, retrieved from: [https://ec.europa.eu/europeaid/regional-and-local-development-romania\\_en](https://ec.europa.eu/europeaid/regional-and-local-development-romania_en).

76 Information included in this section has been previously published in Hînțea, C.E. 2011. Reform and Management in Romania. Strategy and Structural Change, *Revista de Cercetare si Interventie Sociala*, 34, 177–196.

to such an analysis starts from the premise that there is a clear starting point (objective to reach), and a measurable result (of the reform) with the effectiveness given by the difference between the two. Romania represents a case where the meaning of a "successful reform effort" has never been clear with reform efforts sometimes seeming almost incoherent, contradictory, or even opposite from the previous ones. In this context, a key question is whether efforts and resources spent on *reform* have brought an overall positive change in the public administration and increased well-being of the citizens it serves. As reform seems to be a recurrent and never-ending effort, it is natural to have a certain feeling of fatigue which becomes accentuated when the *expected positive results* of these efforts take long to be felt. We will try to point to the distinctive elements of the Romanian PAR process that have shaped the administration into the unique profile it has today.

### 10.3.1. Communist Legacy

The communist legacy is probably one of the most influential and most enduring factors that have shaped PAR in Central and Eastern Europe. The transition towards a post-bureaucratic model of administration (after the fall of the communist regime) implied a general change regarding the concept of public administration as a whole, an attempt that tried to eliminate "the communist mark" at all levels: administrative structure, procedures, organizational culture, strategic perspective, organizational climate, attitude towards change, relationship with the political sphere, relation with citizens, etc. However, this process took place in a unique environment. *At political level*, Romania lacked a political elite with a clear direction regarding the modernization of the State, most leaders being either former communist bureaucrats, or former communist party members with little to no experience regarding coherent public policy (Mungiu-Pipidi, Ioniță, Munteanu, 2003). *At society level*, lack of trust in public institutions and widespread corruption, a preference for informal personal networks over formal institutions (Hall, 2004), and high predisposition for "rent-seeking" for those occupying official power positions (ibid., 2004) were also indirect effects of the former communist regime. *From a cultural perspective*, the communist legacy is (in a way) still present in the administration with civil servants displaying high power distance in group collectivism, and low future orientation and performance orientation (Țiclău, Hințea,



2016), which points to a body of bureaucrats with high tolerance for unequal power distribution, little support for excellence, focus on immediate gratification, and high valuation of family and close friends. Thus, any attempt in understanding the evolution of PAR in Romania should consider the *communist legacy* as a major factor of influence on the overall administrative system. This makes Romania's transition quite unique – a common communist background similar to the East European countries but with specific cultural and historical elements that interacted to form a particular evolution. Although the post-communist paradigm is not the only key in which the current administrative framework should be understood, it is impossible to ignore it. After 25 years from its fall, one legitimately raises the question – how relevant it will still be in explaining future trends of reform. Because PAR is a continuous process, it is both limiting and inappropriate to use the *communist legacy* as the sole key for understanding the reform. It still has a print on Romanian society but a fading one, as demographics, technology, human mobility, migration, economic development are factors that gain importance.

### 10.3.2. Motivation for Reform – External vs. Internal Pressures

The next question to ask ourselves when looking at PAR is: “motivation for reform?”, evidently with no simple answer. Is it the general need for change being pushed by the political elite to keep up with a fast evolving society, or are the demands coming from international stakeholders or internal pressure from within (due to extraordinary events or accumulated discontent), maybe just a marketing mechanism used in political discourse to have better chances of occupying office? This is an essential question as the reason behind reform will probably have a great impact on the shape, design, and effectiveness of reform.

If it is political marketing, then reform will be more about political discourse than actual policy, while an ideologically motivated reform with political elites behind it will definitely have more success. After 1989, *reform* was a constant of political discourse (and given the ruthlessness of the previous regime, it is no surprise) but the motivation behind its front stage appearance was different. Geert Bouckaert and John Halligan (2008: 13) note that in Western countries, reform movements were stimulated by two major factors: (1) economic factors (high public deficits, high expenditures of the state, level of taxation), and (2) public distrust in the government, double internal pressure

coming from both the market and citizens. Are these factors also present in the case of Romania? The 2006 Eurobarometer depicts an interesting picture with citizens showing high levels of trust in the EU (67%) but much lower trust in national state institutions – 27% Government, 24% Parliament, 12% Political Parties (EC 66, 2006). A more recent national study<sup>77</sup> from 2011 regarding citizens perception of local public administration shows a rather pessimistic picture – when asked to evaluate the level of satisfaction regarding the activity of the local authorities of respondents said they think civil servants follow personal interest before the public one (60.5%), are not professional (40%), lack integrity (42%), authorities are not able to solve their problems fast enough (50%), and are not efficient in their activity (42%). This is indeed an undesirable combination: a citizen that believes that the public administration decisions have a major influence on his or her life but, at the same time, feels he or she can do little to influence them. This lack of trust in the capacity of public institutions to solve community problems is maintained even at present time.

A recent national representative survey found that less than 20% of citizens trust the representatives of local public administration compared to 77% of citizens who had trust in firemen, or 74% in athletes or doctors (IRES, 2016); also more than 90% of people feel that the level of corruption is unbearable, and 65% feel the responsibility for this lies within the political class (ibid. 2016), while three major causes for the lack of trust in the Romanian State are according to the same study: (1) high levels of corruption, (2) inequality or privileges for certain categories of citizens, and (3) lack of fair competition. Looking at these numbers we can certainly conclude that corruption and lack of trust in public institutions lead citizens to believe that the administration is rather a source of problems rather than a solution.

From inside the system, change has been gradual and incremental at best with civil servants either not understanding the purpose of reform, classifying it as ambiguous, or not being familiar with its content (Tripon, Șandor, 2008; Andrei, Profiroiu, Turturean, 2006). Thus, internal pressures for reform were rather weak. The main stimuli for reform, in Romania's case, usually came from outside. The desire to be part of the EU and NATO has made governments,

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77 „Studiu privind corupția din administrația publică locală” RAPORT COMPREHENSIV, available online at: <http://www.portalbn.ro/cj/Lists/Stiri/Attachments/74/RAPORT%20COMPREHENSIV.pdf>. For full information please consult the reference section.

starting with 1997, very open and perceptive to reform proposals coming from international stakeholders. This phenomenon had two types of effects:

- **A positive effect:** high levels of popular support regarding accession to the EU or NATO which gave governments little room to maneuver regarding adoption of reforms, especially those essential for accession. In many cases, the external pressures were the only ones. However, as in other EU countries, the leverage of international bodies reduced after accession, and implicitly, their potential influence (as catalyst) on national reforms.
- **A negative effect:** being promoted by external factors, some reforms were adopted just because “they had to be adopted” but were never fully implemented and internalized by both political leaders and the administrative apparatus, leading to incremental or superficial change with little results. One specific example for this is the creation of institutions at the explicit request of international bodies (National Institute of Administration, National Agency of Civil Servants) without the necessary managerial capacity and resources needed to run effectively and serve their true purpose.

External pressures for change also led to the onset of a “correct language” for PAR – *increasing administrative capacity, improving quality of services, creating a European State, or the alternative adopting European standards, professionalization of civil servants* – a language which has been used (especially by politicians) to mask lack of progress of reform.

### 10.3.3. Reform Coherence (or Lack of It)

Beyond the *language*, lack of coherence or strategic approach in reform proposals has been a constant shortcoming. This led to a mostly incremental change process with small changes in different areas of the system (procedures, relations between central or local organizational structures, restructuring of central administration, creation of new institutions) but without a system-wide logic and a long-term perspective. Some initiatives taken recently (creation of an organizational structure inside the Ministry of Development and Public Administration responsible for government-wide strategy, and coherent public policy process in 2008) aim to offer such a (strategic) perspective but their impact is rather minor (a series of strategic documents at best).

This lack of coherence has been more prominent before the EU integration (lack of a strategic approach to PAR, sectorial reforms initiated without a strategic vision, low administrative capacity for reform implementation – EC Country Reports 2000, 2001, 2002) but has remained a challenge even after the accession. Between 2007 and 2013 a number of 40 *sectorial strategies* concerning public administration have been approved by the Government without taking into consideration other policy initiatives.

This trend is sustained even today with the existence of over 35<sup>78</sup> “*national strategic documents*” but no comprehensive country strategy<sup>79</sup> aligned with the Europe 2020. This abundance of strategies is unfortunately not translated into actual results – evaluations of the yearly National Reform Plans<sup>80</sup> indicate that only about 27% of the proposed objectives were actually achieved during the allocated time frame (2011–2013 period). Finally, a good proxy for lack of coherence is *legislative stability and predictability*, which has been signaled as a major shortcoming in numerous reports (CSM Report, 2015<sup>81</sup>; Fiscal Council Report<sup>82</sup>, 2013, 2015; EC Country Report, 2014, 2015; CEPA, 2014) referring to different sectors but most often regarding justice, fiscal legislation, environment, and energy sectors. The practice of using urgency ordinance as a tool for public policy decisions is a further sign of limited strategic approach<sup>83</sup> (see Table 1 below), although this practice has been steadily decreasing in the last years. This decrease in the number of urgency ordinances should be taken with a pinch of salt, the press signaling a new practice where more initiatives are put together inside one ordinance, so the government would avoid the critique of abuse of urgency

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78 Only the documents concerning the national level are counted in 2015 reference year.

79 As Romania had a loan agreement with the IMF and the EC between 2009–2014, the Government released yearly or bi-yearly strategic plans called National Reform Plans (2011–2013, 2014 and 2015) but these were constructed in agreement with the IMF and the EC and had the purpose to guide the Government’s efforts to advance the reforms in exchange for the loan. This falls in the category of must do reforms discussed in the next section of the chapter.

80 Yearly or 2-year plans developed, starting in 2013, in agreement with the EC aiming at developing public policies for the Europe 2020 country targets.

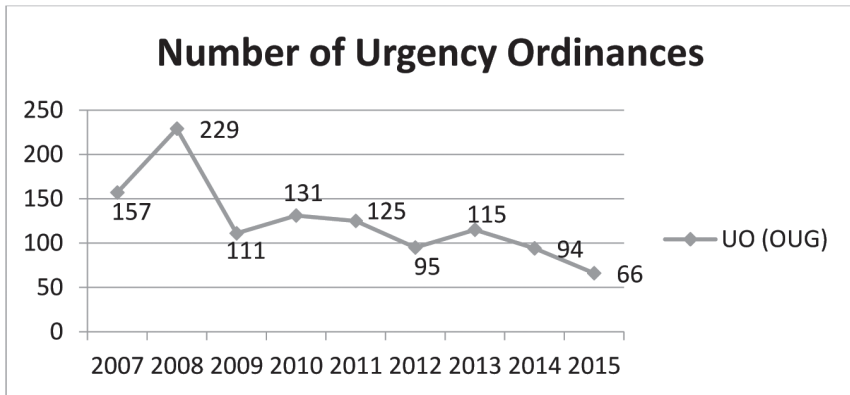
81 Superior Magistrature Council (CSM) – Report on the State of the Justice System for year 2015, available online at: <http://www.csm1909.ro/csm/index.php?cmd=24>.

82 2013 annual Report by the Fiscal Council (FC), available online at: <http://www.consiliulfiscal.ro/ra-2013.pdf>, and <http://www.consiliulfiscal.ro/RA2015%20ro%203iunie2016%20c.pdf>.

83 Legally, this is a measure the executive can (and should) use only in situations of utmost urgency but has been a practice of all political parties when getting into office to promote their agenda in a “faster” tempo.

ordinances while retaining the power of immediate appli-ance of its initiative (2015).<sup>84</sup>

**Figure 10.1:** Number of Urgency Ordinances



Source: Chamber of Deputies (Parliament).

This type of approach to reform without a strategic perspective and vision has major drawbacks in the long term as it brings “artificial” change to the system that is not fully adopted and internalized – different elements of the system are changing without a bigger picture and a clear thought out direction – and contributes to the increasing feeling of “random reform”. One solution would be to adopt a strategic approach to the reform process based upon the correct identification of *key strategic factors* (more on this in Hințea, 2011) that will have significant medium to long term impact on the system.

One pressing question is whether such an approach (mostly focused on sectorial change) can have positive results, and can truly bring systemic change. Naturally, specific change initiatives are simpler and easier to “sell”, imply less risk, and sometimes have a “quick fix” nature that is appealing both to politicians and public. However, focusing only on operational problems can lead to substantial long-term problems: ignoring structural problems does not make

<sup>84</sup> In one such situation, in 2015, the government adopted in the body of 1 urgency ordinance no less than 26 initiatives from the field ranging from sports to state-owned companies – see OUG 2/2015.

them disappear but rather increases their negative impact and there is a certain point when tackling them becomes inevitable. This approach based on the belief "if you ignore a problem it will also ignore you" is surprisingly widespread<sup>85</sup>

#### 10.3.4. Magnitude and Approach. Sectorial Policy vs. Structural Reforms

When talking about PAR, another relevant question is the "nature of change". Are we talking about structural, system-wide change that implies major political risks, or are we referring to specific, sector or policy change which is focused on fixing limited or specific problems? Combining the issue of *motivation* with that of *magnitude of reform*, we end up with 4 cases:

- **"Must do" structural reforms** – these refer to major changes that focus on the system as a whole, and mostly have come from external pressures. This is the case of the major reforms that took place during the EU accession period (1999–2007) which implied the adoption of the Acquis Communautaire and changes to satisfy the conditions, and close all the 35 chapters; the case is similar regarding the NATO accession, although in this case the reforms were more narrow, involving mostly the area of defense and intelligence. Another example of must do structural reforms are the major changes that took place between 2009 and 2012 (see Boc, 2011) as a reaction to the financial crisis – their main pressure coming this time from the IMF and the European Union.
- **Structural ideological reforms** – this category refers to reforms that have an internal source, are politically motivated, and aim at changing and shaping the administration according to the ideology held by the political leaders. Unfortunately, in Romania, few reforms (if any) have been promoted and implemented because of ideological beliefs. One such attempt could be considered the Education Reform (law 1/2011) which was ideologically motivated (strong political support from the governing party for the minister who promoted it) had a comprehensive character, and redefined the notion of public education. However, it proved to be short lived, the change of government in 2012 brought immediate and successive amendments to the law in the next two ye-

85 A good example of this is the Government's main concern regarding the pension system towards the transfer of pensions for senior citizens on bank cards but leaving the problem of budget deficits which is structural (see Dragotă, Miricescu, 2010; Ciuraru-Andrica, 2013).

ars after its introduction, suffering more than 20 changes<sup>86</sup> which reversed or eliminated most of the changes (Nature, 2013).<sup>87</sup>

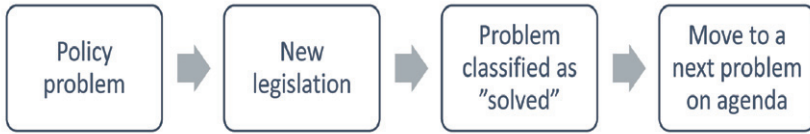
- **Specific "policy" reforms** – these are fairly common, and refer to sector reforms that have an ideological base or come from a positive past experience in solving similar problems. They usually focus on procedures, programs, or internal mechanisms of a specific part of the administrative apparatus; they do not have system-wide impact and do not imply a change of paradigm. The most obvious example is changes of the fiscal code which are in most cases ideologically driven (depending on the political orientation of the government) but do not imply a general change in the entire administrative system.
- **"Must do" specific policy reforms** – these are probably the most common types of changes, and are focused on operational issues, in most cases negotiated with or solicited by external stakeholders. They appeal to the political leaders as they can pass the responsibility to external factors – the traditional discourse is they are "EU requirements" or "the IMF requirement". Unfortunately, in most cases, these changes have little long-term impacts and, sometimes, lack of internal support even from the political leaders, thus leading to poor implementation with little to no positive results<sup>88</sup>. The side effects of these poor results (dangerously) lead to a reform fatigue in public opinion.

Another specific characteristic, regarding the actual framing of reform proposals, is their *legalistic character*. This paradigm stems from the assumption that adoption of new legislation is the solution for public problems (see Figure 10.2).

86 For detailed information on the nature of the changes consult "Doi ani de la intrarea in vigoare a legii Educatiei Nationale. Cum au modificat-o cei 6 ministri si jumatate din ultimul an" Hotnews article from 12 february 2013 available at: <http://www.hotnews.ro/stiri-esential-14212979-doi-ani-intrarea-vigoare-legii-educatiei-nationale-cum-modificat-cei-6-ministri-jumatate-din-ultimul.htm>.

87 Both local and international press have been highly critical of the modifications meant to reverse or reduce the impact of changes brought by Law 1/2011. In the next two years after its introduction, it was modified more than 20 times, and it has been one of the most modified pieces of regulation. For more on this see Nature, 500, 22 august 2013: 388–389.

88 One such example is the reforms implemented starting with 2009 in State Owned Companies (SOC). External pressures for privatization from the IMF and the EC led to introduction of private management to SOC but with poor results as the legislation change still permitted high levels of political influence. For more information see Expert Forum Policy Brief No. 11, 2012; See also Marrez, 2015.

**Figure 10.2:** Linear Logic of New Legislation

This belief of solving policy problems through adoption of new legislation is not specific only to Romania (Liebert, Condrey, Goncharov, 2013). It stems from the view that the administrative apparatus is an institutional extension of administrative law, thus any problems related to it can be fixed through new regulation. An important caveat of this approach is that its promoters (usually political leaders) do not consider the implications of regulation on the actual enactment of reform, leaving out any consideration on issues of administrative or managerial capacity. The consequence of this is legislative instability as there is never a shortage of problems that need fixing, which leads to constant modifications of the legal framework that, in turn, lead to ambiguity and uncertainty. This is doubled by a cultural paradigm that *public management* is more a question of instinct or hobby, one does not need a special training, and the main criteria for success is sufficient political support. The legalist culture, along with a general disregard concerning managerial professionalism inside the administration, are two important factors that have contributed to the reduced effectiveness of reforms in Romania. Finally, it is worth mentioning that, while in Western countries the market has been a very strong source of pressure for the public sector to become more efficient and cost-effective, its role in Romania has been reduced (the free private market is less developed, and has a history of less than 15 years in Romania)

### 10.3.5. Pre-Bureaucracy towards Post-Bureaucracy

One common problem with analyzing and understanding reforms in Central and Eastern Europe is the applicability of Western type reform models. Can they be imported? Do they work? Do they bring the same benefits as in Western Europe? Evidently, there is no straightforward answer; as the contextual factors are immensely important for the success of such initiatives, the major challenge is the adoption of *post-bureaucratic measures in a pre-bureaucratic administrative system*. Post-bureaucratic reforms stem



from the general idea that the traditional administrative model is obsolete and incapable of solving the complex problems of modern society. Pollitt and Bouckaert (2011) classify these post-bureaucratic reform movements in three major categories – New Public Management (NPM), Neo-Weberian State (NWS), and New Public Governance (NPG). Being a reform approach of the „1980s”, NPM is the only reform movement that has already been evaluated both in Europe and Romania. NPM type changes started mainly after Romania’s EU accession process initiated (1997), and were mostly focused on public administration organization and functioning – civil service reform, decentralization process, cost-saving measures, reducing state apparatus, and more recently, reform of the education system<sup>89</sup> (Dan, 2015). NPM type initiatives regarding the health system (especially regarding co-payment and a more prominent role of the private sector) did not find too much support from the public. It is difficult to evaluate the impact of these reforms<sup>90</sup> – on the one hand, the most recent ones have coincided with the financial economic crises, thus especially cost-cutting measures and downsizing were inevitable, while on the issues relating to effectiveness, efficiency, quality of services, it seems that Romania is still falling behind – with international reports indicating major issues regarding poor management of state-owned companies, EU funds absorption, and poor public governance (EC Country Report, 2015; CEPA<sup>91</sup>, 2014). Referring to the other two paradigms – Neo-Weberian State and New Public Governance – they are relatively new even on a theoretical level, with continuous debates regarding their form and content, indicating no universal model at least regarding NPG (Pollitt and Bouckaert, 2011; Torfing and Triantafyllou, 2013). A recent research on the influence of cultural antecedents on civil servants (Țiclău, Hînțea, 2016) indicates a higher preference for NWS structures in administration with *“following organization rules, guidelines, and orders”* and *“conducting business in an impartial way”* – seen as the most important elements of an *“ideal”*

89 Law 1/2011 with a clear focus on budgeting based on the results and performance, although it has been changed immediately after the 2012 elections and instalment of a new government.

90 Measures with the highest impact were taken during the crisis period (2009–2011) and were focused on reducing the public deficit through cost-cutting measures across the board, including a 25% reduction in salaries for public officials, along with a general downsizing of the state apparatus – 223 executive agencies were reduced to 112. For more on this see Boc, 2011; Mora, Țiclău, 2012; Hînțea, 2011.

91 Center for European Policy Analysis (CEPA). For full report please see reference section.

administrative system (ibid. 145). However, further research on the topic is needed, and would offer a more accurate picture of which of the three models is preferred by civil servants.

The historical evolution of Romania (including the communist period) has placed the administrative system in a situation where it needs to overcome two major challenges linked both to the ideal model of a bureaucracy and to the modern approaches of PAR: (1) reducing political influence and professionalization of the civil service, and (2) adopting specific managerial principles (cost standards, budgeting by objectives, performance management, TQM, benchmarking, Program Planning Budgeting Systems) along with maintaining the ethos of the public sector (fairness, representation, equitable treatment, non-discrimination). This is a complex task with which the Romanian public administration struggles to both understand and implement. Compared to its Western counterparts, Romania did not have the “luxury” of organically developing its bureaucracy (because of its communist past), hence the challenge is much more difficult. It has to transform a pre-bureaucratic system into a modern post-bureaucratic one while skipping the bureaucratic phase, and (paradoxically) retaining the positive elements of the Weberian model (professionalization, competence, impartiality). This is probably the biggest challenge faced (and still facing) by the post-communist Romania (Hințea, 2011: 182).

### 10.3.6. Context of Reform

Finally, context is another specific factor that must be thoroughly analyzed in order to understand PAR and its chances for success. In the case of Romania, several elements are noteworthy:

- **Macroeconomic evolutions:** In a certain sense of irony, the most ambitious reforms have been adopted in the period of economic crisis when resources were scarce and the sectors seemed untouchable until then (restructuring of central administration, financial restructuring, educational reform, pension system reform – see Boc 2011, Mora, Țiclău, 2012). On the other hand, the period of economic growth has been marred by the lack of strategic vision regarding development – in 2011, Romania had over 40,000 investment projects that already

started but have not been finalized yet<sup>92</sup> – adoption of modern financial tools (multi-annual budgets) remains an ambition, investment in innovation and research to develop competitive advantage being reduced or stagnating at best.<sup>93</sup> A simple explanation for such a sharp contrast is best described by the aphorism *necessity is the mother of all motivation*.

- **Socio-cultural evolutions:** Understanding the cultural paradigm, and especially the specifics of both national and administrative culture, is essential for the reform process as this is directly linked to the success of the reform (March, Olsen, 1995). **Trust** between citizens and public authorities, and between the state institutions themselves is a cultural specific factor. In Romania, this relation is characterized by reduced public trust in the capacity of the state to solve citizens problems (IRES, 2016), while the administration does not see citizens as partners but rather as "administered" beneficiaries, leading to a vicious circle of suspicion – a problem which cannot be resolved just through regulation. Lack of trust translates into poor communication and specific behavioral changes where bending rules, finding loopholes, or directly not complying with the rules becomes acceptable on a large scale. An example of this (Preda, Grigoraş, 2011) is the establishing of disability pensions – their number has exploded from 208,000 in 1990 to 892,000 in 2008 (430%); moreover, in some counties over 30% of pensions were granted as disability pensions while in other counties their percentage was much lower, i.e. between 6% and 8%. This indicates systemic problems regarding how these benefits (criteria being too lax) are given combined with a development of fraud networks and tolerance of rule bending. **Migration** has also been an important influence on PAR. Positive effects range from large financial capital sent back by migrant workers<sup>94</sup> combined with higher

92 Declaration of Mugur Isărescu, Head of Romanian National Bank at the CCG Economic Forum, Bucharest (2011). Full declaration can be found at: [http://economie.hotnews.ro/stiri-finante\\_banci-8373912-mugur-isarescu-are-nevoie-aceasta-tara-nu-bani-antreprenori.htm](http://economie.hotnews.ro/stiri-finante_banci-8373912-mugur-isarescu-are-nevoie-aceasta-tara-nu-bani-antreprenori.htm).

93 According to EUROSTAT, R&D financing has been decreasing in the last 3 years (2013-2015), reaching a meagre 0.38% of GDP, thus being in last place at the EU level, although Romania has enjoyed economic growth.

94 In 2014, 4,2 billion euro have been sent back to Romania by Romanian migrants working in

expectations regarding public service quality because of exposure to public services in the West, while there is a downside to increasing the number of children left to be cared for by other people than their parents. Romanians working or living abroad have had a major influence on the last two presidential elections (2009 and 2014): in 2009, while in country votes indicated one candidate as winner, the additional votes coming from Romanian expatriate voters changed the result, while in 2014, the news that people were waiting for more than 12 hours to vote caused a public outrage regarding one of the candidates, increased public participation to vote in the second round, and basically provided the victory for the opposition candidate.<sup>95</sup>

- **Political factors:** they are diverse and mixed. Lack of strategic perspective regarding reform, with the notable exception of accession to NATO and the EU an objective that found support through the entire political spectrum (this is a reflection of high public support for a Western direction of development in an attempt to brake away from the communist past). High politicization of the public sector manifested throughout the entire administrative apparatus (central administration, local administration, state-owned companies, and central agencies) has led to major deficiencies in management quality of public organizations, high instability of human resource, lack of strategic perspective, low motivation of civil servants (WB, 2011, 2013).
- **Technology:** Although Romania is still playing catch-up regarding e-government and access to online public services, its evolution has been dramatic. The number of Internet users has more than tripled between 2002 and 2013, from 1,7 million users to 6,4 million in 2013, and 8,8 million in 2015. Moreover, Romania ranked 6<sup>th</sup> worldwide in 2015 according to Techinsider<sup>96</sup> regarding average peak Internet speed. A major impact is also felt in the labor market where more than 75,000 people work for 14,000 IT companies with revenues of

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the EU, mostly in Italy in Spain, a figure larger than total net foreign investments according to Romanian National Bank.

95 Public participation to the second round of the Presidential election was 57% in 2000, and 55% in 2004, 58% in 2009, and 64% in 2014 (source: National Electorate Bureau).

96 Ranking available online at: <http://www.techinsider.io/akami-global-internet-speeds-rankings-2015-9>.

over 4 billion euro in 2014 (Euractiv, 2015).<sup>97</sup>

The context analysis implies the understanding both the evolution of these factors and how they interact and influence reform (considered together). It is a difficult, complex but necessary analysis, in its absence, resistance to change is almost impossible to overcome. In Romania, resistance to change has been strong and diverse, and the anti-reform discourse has been growing from two arguments:

- In essence, reform is desirable and positive but is not appropriate at present as there are more urgent issues that need resolution;
- Romania is a special case where Western ideas and policies of reform should and cannot be applied.

Regarding the local context, *political support* and *technical (or managerial) capacity* for reform are indispensable for ensuring success. Romania has had in most situations one of the two unfortunate combinations: (1) political desire for change but without the necessary technical know-how, or (2) well-documented policy proposals that lack the necessary political support. Although most of the blame for failures or limited success of reforms is commonly placed on politicians, low managerial capacity for reform implementation (present at all system levels) contributes to these letdowns. Lack of a managerial culture inside the public sector, lack of technical expertise in both local and central government, low number of think-thanks able to offer policy expertise, low involvement of the academic sphere (universities) in providing know-how on specific policy issues are some of the causes for the overall low managerial (or administrative) capacity. Even though the administrative system does not have sufficient managerial capacity it is also not very open to bring in such expertise from other fields. A recent study (Hințea, Profiroiu, Țiclău, 2015: 37) indicates that universities are the least involved partners in strategic planning initiatives at the local level with less than 20% of local administration involving representatives from the academia in different stages of the planning process (compared to the business sector which goes as high as 60% individual citizens which are involved in almost 90% of the cases).

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97 Article available online at: <http://www.euractiv.ro/economic/industria-it-din-romania-14.000-de-companii-75.500-de-angajati-si-venituri-totale-de-4-mld.-euro-2722>.

## 10.4. Specifics of the Administrative System. Civil Service, Decentralization, Agencification, Public Funding

In this section, we analyze the evolution of the administrative system in the last 20 years. Special attention is given to the civil service, process of decentralization, agencification, and public financing of administrative apparatus. Our purpose is twofold: (1) highlight the specifics of the system, and (2) point to the key reforms that shaped it into what it is today.

### 10.4.1. Civil Service

Romania can be considered a slow starter<sup>98</sup> regarding civil service reform as legal establishment of a formal civil service came through the adoption of the *Law No. 188/1999 on the Statute of Civil Servants* – a comprehensive law regulating most facets of the organization and functioning of the civil service. Coupled with the adoption of the *Law No. 7/2004 on the Code of Conduct for Civil Servants*, hereinafter referred to as: the Code of Conduct, focused on professional conduct and integrity criteria, they represent the backbone regulation for the civil service. The first piece of regulation, divides civil servants into three major categories (based on responsibility/hierarchic position):<sup>99</sup>

- *Execution civil servants* – lower level civil servants with execution positions (high school degree; – over 90% of all civil servants),
- *Managerial civil servants* – middle management positions in the local or central administration (need a undergraduate university degree; – approx. 11%),
- *Senior Civil Servants (SCS)* – highest ranked civil servants occupying highest non political positions, mostly central government (need a undergraduate university degree + graduation of the specific program for SCS – approx 0.15% of civil servants, or between 240 and 260 in absolute numbers).

98 Introduction of Civil Service Statute in other EEC: Hungary in 1992; Estonia in 1995; Poland in 1998; Bulgaria, Lithuania, Albania in 1999; Latvia in 2000).

99 Part of the information included in this section has been previously published in Hîntea, C., Țiclău, T., "Training of Senior Civil Servants In Eastern European Countries. The case of Romania", In: Montgomery Van Wart, Annie Hondeghem, Erwin Schwella (Eds), *Leadership and Culture. Comparative Models of Top Civil Servant Training*, Palgrave Macmillan: 103–118, 2015.

All civil servants are appointed through a general public contest while SCS positions are filled through a special national contest. Likewise, all public activity of civil servants must be in accordance with the principles of legality and impartiality, transparency, efficiency and effectiveness, accountability, orientation towards citizens, stability and hierarchical subordination. This can be seen as a combination of values, like fairness and social justice (legality, impartiality, transparency, and accountability), orientation towards results (efficiency and effectiveness, orientation towards citizens), and bureaucratic values (stability and hierarchical subordination).

However, legality or adherence to the law seems to be the top priority of civil servants (of any class) as the obligation to obey the law expressed through policies and procedures specific to their positions supersedes other loyalties towards either their institution or their superior as they can refuse to execute an order if that order is not according to the law (Art. 45, Law 188/1999) with the condition to motivate their decision in writing, and at the same time, signal the *unlawful order* to a superior. This was latter reinforced through the introduction of a specific model of conduct (Art. 6, *Law No. 7/2004 on the Code of Conduct*) – *loyalty towards the Constitution and the Law*. The responsibility regarding implementation, evaluation, and general monitoring of code of conduct infringement falls in the jurisdiction of the National Agency for Civil Servants (NACS) which is the main institutional body responsible for the full management of the civil service (ranging from regulation, control, and enforcement).

The National Agency of Civil Servants (NACS) is a central agency under the Ministry of Public Administration, and "is responsible for formulating the policies and strategies concerning the management of public positions and civil servants, drafts and advises normative acts concerning public positions and civil servants, monitors and controls the implementation of legislation concerning the public position and the civil servants, etc." (Government Order No. 1000/2006). NACS is also responsible for the annual development plan for public functions in the central administration, and regulates the appointment, promotion, and dismissal of civil servants as well as any situation of conflict or breach of ethics. Lastly, NACS has full responsibility regarding training and professional development programs for civil servants in general, including SCS. Management of the public function is based on a National Development (or Occupation) Plan which defines the maximum number of public positions for

each category and for each type of recruitment or employment (promotion, external selection, appointment, creation, etc.).

**Regarding ethics and integrity**, Romania represents one of the most progressive civil law jurisdictions to attempt to regulate civil servants' conduct regarding ethics and integrity (Bryane, 2008), with the main piece of legislation being the Code of Conduct, although some provisions are overlapping with other laws.<sup>100</sup> The Code of Conduct aims at promoting ethical values within the civil service in order to help civil servants provide "excellent" public services (Art. 5), establishing a set of principles of professional conduct, loyalty of civil servants towards the law, their agency and public interest, regulates communication with the members of the public, and re-iterates the prohibition against taking gifts and bribes, similar to many of the provisions found in other EU ethics laws (Bryane, 2008).

**Figure 10.3: Areas Regulated by the Code of Conduct for Civil Servants**

**Chapter I: Field of Application and General Principles**

Article 1: Field of Application

Article 3: General Principles

Article 2: Purpose

Article 4: Terms

**Chapter II: General Norms of Moral and Professional Conduct for Civil Servants**

Article 5: To provide a high quality public service

Article 7: Loyalty to public authorities and institutions

Article 9: Public activity

Article 11: Use of image

Article 13: International relations

Article 15: Participation in decision making

Article 17: Use of political prerogatives

Article 6: Loyalty to the law

Article 8: Freedom of opinion

Article 10: Political activity

Article 12: Relationships

Article 14: Restrictions on gifts

Article 16: Objectivity

Article 18: Use of public resources

Article 19: Restricted participation in public contracts

**Chapter III: Institutional Arrangements**

Article 20: The public institution in charge

Article 22: Settling the case

Article 21: Notification

Article 23: Publicity on reported cases

**Chapter IV: Final Provisions**

Article 24: Accountability

Article 26: Publicity

Article 25: Harmonization of internal rules

Article 27: Enforcement

*Source: Bryane, 2008: 305.*

100 *Law No. 188/1999 on the Statute of Civil Servants or recent orders of the NACS.*



As expected, implementation, evaluation, and general monitoring of ethics code infringement is mainly the responsibility of NACS. Through the Law No. 50/2007,<sup>101</sup> the positions of *ethics counselor* was introduced, named by the head of the institution from the HR department, with twofold responsibilities at the institutions level: (1) offer consultancy and support to other civil servants regarding issues of ethics and integrity, and (2) monitor and report on the application and conformity with the Code of Conduct. Whereas in Western countries (the US, the UK, Holland), the main focus is on counselling and offering support, in Romania the main focus (judging by the detailed regulation) is on monitoring and reporting.<sup>102</sup> Though the NACS is mostly responsible for collecting complaints regarding ethics issues and following up on them, the ethics counsellors are the ones who actually need to constantly monitor this activity inside the institution, and report directly to the head of the institution who, in turn, forwards these reports to the NACS. A unitary way of reporting has been adopted since 2008 (Order No. 4500/2008 of the President of NACS). A recent change made in 2015 offers ethics councilors the possibility to report directly to the NACS using an online platform.

The National Anti-Corruption Strategy 2012–2015<sup>103</sup> requires a self-evaluation regarding the use and effectiveness of anti-corruption measures for each public institution. The NACS activity reports for 2013 and 2014 mention that around 822 institutions (representing about 60% of civil servants) have submitted reports regarding these measures. The conclusion drawn from them is that "too little attention was given to identifying the causes of ethics and integrity infringement".

Sanctions applied each year for breaching the Code of Conduct vary from 500 to 550, which means around 0.004% in total of approx. 130,000 civil servants have breached the Code of Conduct, and have thus been sanctioned.

101 Law No. 50/2007 amending the consul of Conduct, available online at: <http://lege5.ro/Gratuit/geydomjqhe/legea-nr-50-2007-pentru-modificarea-si-completarea-legii-nr-7-2004-privind-codul-de-conduita-a-functionarilor-publici>.

102 For a comparative analysis on the role of ethics councilors see Laura Ștefan – Scurtă analiză comparativă a statutului și competențelor consilierilor de etică, available online at: <http://www.anfp.gov.ro/R/Doc/2015/Proiecte/Incheiate/PHARE%202005%20017%20553%20010301/Scurta%20analiza%20comparativa%20-%20consilieri%20de%20etica%20final.doc>.

103 National Anti-Corruption Strategy 2012–2015, available online at: <http://sna.just.ro/sna/sna20122015.aspx>.

An important influence in this area has come from the National Anti-Corruption *Directorate* (DNA) which has intensified its activity in the last years, leading to more than 50% of the Presidents of County Councils being investigated for corruption while the DNA's 2015 report<sup>104</sup> states that public acquisition sector is plagued by generalized corruption. Other numbers are also alarming: 1,250 individuals indicted for high and medium corruption (from which over 100 mayors and presidents of county councils); sums coming from bribes reached 430 million euro (similar sum was allocated for the national highway program for 2016–2018) while the number of dignitaries sent to trial (27 in total) is 5 times higher in 2015 compared to 2013. Clearly, corruption is one of the major (if not the biggest) problem facing Romania also in 2016.

#### 10.4.2. Reform and Decentralization Process

Decentralization is one of the six basic principles of organization and functioning of the local public administration.<sup>105</sup> The actual meaning of *decentralization* is defined more clearly in Law No. 195/2006 which states that it is the transfer of administrative and financial competence from central to local administration or private sector. Two elements are worth noting here, i.e. only *financial* and *administrative competence* are transferred (not political ones), and they can be transferred including to the *private sector*. Decentralization of authority should be done in respecting the following additional principles: principle of subsidiarity; principle of ensuring resources adequate to the competences transferred; principle of responsibility of local government authorities in relation to their powers; principle of ensuring a process of decentralization that is stable, predictable, based on objective rules and criteria; principle of equity that involves ensuring access of all citizens to public services and public utility services; principle of budgetary constraint prohibiting the use of special transfers or subsidies by the central government to cover the final deficits of local budgets. Other aspects worth mentioning are: (1) introduction of cost and quality standards regarding public service provision (established by the central government and adopted starting from 2009); (2) classification of exclusive, shared, and delegated competences, and

104 Available online at: <http://www.pna.ro/obiect2.jsp?id=248>.

105 The 6 principles according to the Law No. 215/2001 (Art. 2) are: local autonomy, decentralization, deconcentration, legality, eligibility, and consultation of citizens in issues of public interest.

(3) transfer of competences based on the level of administrative capacity, and only after an objective and comprehensive evaluation (Carp, Sienerth, 2014). All these are meant to increase the quality of the process and link decentralization to another essential element – *administrative capacity*. In this sense, the central government has to do a prior evaluation of the capacity the local authorities have before competences are transferred, and this happens only if local authorities have the necessary administrative capacity to actually take on new responsibilities. Economic efficiency regarding public services delivered in a decentralized manner, and the size of territorial areas where the public services' beneficiaries are located are also the criteria used in decisions to decentralize (Dragoş Neamţu, 2007: 645). Finally, the obligation of *piloting* before actually transferring competence towards local authorities (done by the central government in collaboration with associative structures of the local authorities) is meant to offer empirical evidence for sectorial decentralization proposals that they are viable.

Although the 2006 Law brings important improvements and clarity regarding decentralization, it still fails to take into consideration a series of European principles contained in the European Charter of Local Self-Government of the Council of Europe, ratified already in 1999 by Romania (law No. 199/1999). A more thorough comparison between national legislation and the EU Charter (Carp, Sienerth, 2014, p 1221) point to the following 2 principles not being included in national legislation: (1) consultation of local authorities on decisions that affect them directly, and (2) proportionality of administrative control and intervention from central government. In 2013, a new law was passed by the Parliament which intended to further decentralize a series of central competences in the field of agriculture, environment, health, pre-university education, culture, sports, and specific competences regarding metro in Bucharest. However, the law was declared unconstitutional by the Constitutional Court (Decision No. 1/2014 of the Constitutional Court), whereas the most important reason being that the proposal was not respecting several principles imposed by the Framework *Law On Decentralization* No. 195/2006.

Decentralization has been a constant topic on the PAR agenda, being set as a priority in all official reform initiatives in the last 15 years (see Table 10.4 below), and started with the adoption of Law No. 215/2001 on Local Public

Administration, and continued with the adoption of the first Framework *Law On Decentralization No. 339/2004* (replaced by the Law No. 195/2006).<sup>106</sup>

**Figure 10.4:** Public Administration Reform Strategies in Romania

Year	Reform strategy	Type of reform approach (NPM/NWS/NPG)	Decentralization as a strategic objective
2001	Government Strategy for the Acceleration of Public Administration Reform, 2001–2003	NWS mostly	Yes
2004	Governments Updated Strategy for Public Administration Reform 2004–2006	NWS	Yes
2007	National Plan for Development 2007–2013 <sup>107</sup> (NPD), National Strategic Reference Framework	Mostly NPM	Not directly
2011–2015	National Reform Program 2011–2013, 2014, 2015	NPM mostly	Partially <sup>108</sup>
2014–2020	Strategy for consolidation of public administration 2014–2020	Mixed (NPM&NPG)	Yes <sup>109</sup>

The first PAR Strategy (2001) was focused on four major pillars: (1) structural reform – better regulation of central and local administration responsibilities along with regulation of interactions with citizens; (2) decentralization process; (3) professional civil service and better public services (reduced political influence, professional development); and (4) open admini-

106 The first Framework *Law On Decentralization No. 339/2004*) was replaced by the Law No. 195/2006 without even actually being put into practice (see more on this in Carp, Sienerth, 2014).

107 After the accession to the EU, Romania had to develop strategic plans in accordance to the EU priorities in order to access financing. Thus, although these plans, including the NPD, had references regarding public administration, their main objective was to fulfill the EU legal requirement and facilitate the EU funds absorbtion by offering necessary legal framework in accessing these funds. This is in line with our previous evaluation regarding lack of strategic, ideologically driven reforms.

108 Decentralization is not defined as a clear strategic objective but is referred to as a priority in the sectors of public administration (capacity development in corellation with decentralization), education, health care.

109 The current reform decentralization has moved from a general strategic objective to a specific objective, specifically focused on financial decentralization.

nistration and citizen oriented services (NPM element). The adoption of the strategy also led to institutional changes with the notable introduction of the Central Unit for Public Administration Reform (UCRAP) which had the role of coordinating and monitoring of all PAR measures which later introduced the Common Assessment Framework (CAF) as a pilot study in 2005 (for more see Băcălă, Bibu, 2013).

The second PAR Strategy (2004) was a continuation of the first one but reformulating the priorities, such as (1) reform of the civil service (professional development), (2) reform of local public administration through decentralization, and (3) better public policy process (increased managerial capacity to implement public policy). Adopted in 2004, it offered continuity but actual results were mediocre with little progress made (according to the European Commission's annual report in 2005).<sup>110</sup>

After the EU accession, Romania adopted the National Plan for Development (NPD)<sup>111</sup> and the National Strategic Reference Framework (NSRF)<sup>112</sup> which were very comprehensive strategic planning documents aimed at developing the necessary structural instruments for EU fund absorption. Although not PAR strategies per se, they both featured a special section on PAR with the main focus on *development of administrative capacity*. A specific Operational Programme was introduced with two priority axes (NSRF, 2007: 147–148):

- *Priority Axis 1.* Structural and process improvements to the public policy management cycle (with the objective of developing policy formulation capacity, better regulation, strategic planning, and inter-institutional partnership working; improving accountability and overall organizational effectiveness);
- *Priority Axis 2.* Improved quality and efficiency of the delivery of public services on a decentralized basis (with the aim of developing structural and process change arising for decentralization initiatives and improving the quality and efficiency of delivery of public services locally).

110 European Commission – Romania 2005 Comprehensive Monitoring Report, available online at: [http://ec.europa.eu/enlargement/archives/pdf/key\\_documents/2005/sec1354\\_cmr\\_master\\_ro\\_college\\_en.pdf](http://ec.europa.eu/enlargement/archives/pdf/key_documents/2005/sec1354_cmr_master_ro_college_en.pdf).

111 Available online at: [http://arhiva.fonduri-structurale.ro/Document\\_Files//PND/00000051/txs06\\_PND\\_2007\\_2013.pdf](http://arhiva.fonduri-structurale.ro/Document_Files//PND/00000051/txs06_PND_2007_2013.pdf).

112 Available online at: [http://arhiva.fonduri-structurale.ro/Document\\_Files//docutile/00000049/txp84\\_CSNR\\_final\\_EN.pdf](http://arhiva.fonduri-structurale.ro/Document_Files//docutile/00000049/txp84_CSNR_final_EN.pdf).

In short, the focus was on developing managerial capacity to manage the EU financial resources and improving overall effectiveness of services.

During the 2011–2014 period, the financial crisis was the major factor that shaped the Government actions, including the measures it took in the field of public administration, i.e. a series of national strategic documents (called National Reform Programs) which had the role of guiding the central Government throughout the crisis period. The structure of these documents was based on the Europe 2020 strategy, but PAR was not specifically defined as a priority. However, all of these documents included PAR-like measures as most of them focused on further developing administrative and managerial capacity, better and more effective regulatory process, improved public policy process, increased administrative efficiency and transparency. These were measures taken under the pressure of international partners (European Commission, World Bank, IMF) in exchange for financial assistance during this period. Measures taken in the field of public administration were adopted grounded on a series of functional reviews done by the World Bank.<sup>113</sup> Most of the measures can be included in the NPM category with increased transparency and accountability entering the NPG type of measures.

The last PAR Strategy, adopted in 2014 (Strategy for Consolidation of Public Administration 2014–2020), was developed starting from the Europe 2020 priorities. Based on a thorough analysis of previous international reports (WB, EC) but also different internal reports, six key problem areas for intervention were identified: (1) influence of politics in PA/politicization, (2) poor resource allocation from the national budget, (3) ambiguous and overlapping responsibilities between central and local government, (4) lack of transparency of governmental activity, (5) lack of trust in state institutions, and (6) low professionalization of the civil service. Thus the strategic objectives of the strategy were:

- Clear institutional mandates both centrally and locally (adapted to the citizens' needs);
- Increased managerial capacity and professionalization of the civil service;
- De-bureaucratization and simplification of regulation;
- Increased local autonomy and decentralization of services;

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113 For full information please see reference section on the WB reports.

- Increased access and higher quality of public services (cost effectiveness).

It is still early to evaluate the impact of the last strategy but there are positive signs regarding transparency and simplification of regulation with the new Government<sup>114</sup> (headed by a technocrat Prime Minister), adopting an online free public access platform<sup>115</sup> with full disclosure and public spending of both central and local government. As recently as June 2016, a new set of measures was adopted aimed at cutting the bureaucratic burden on citizens by reducing the number of documents solicited for different services and providing them only once no matter what services they access (drivers licence, passport issuing, ID issuing, taxes payment) along with a series of measures that, increase the digitalization of the administration.<sup>116</sup> The measures were taken based on direct citizen input through an online platform opened specifically for this purpose.<sup>117</sup>

Looking at these measures we can definitely see both NPM type changes (effectiveness, cost-cutting, de-bureaucratization) but also the NPG ones (increased transparency, openness to citizens and partnerships with civil society to develop better services, digitalization).

### 10.4.3. Public Funding and Agencification

One important element of decentralization is the transfer of financial resources from central to local budgets. Fiscal decentralization means each local authority has its own budget, local budgetary resources being made up of (in descending order): VAT amounts, shares from income tax, other local revenues, subsidies, local taxes, and donations (Gyorgy, Câmpeanu, Gyorgy, 2011). Through decentralization, local authorities have received supplementary "financial responsibilities (the primary and secondary education, social assistance services, the decentralized cultural institutions, public health services, etc.) but did not receive full financial autonomy for these assigned responsibilities as the state budget allocates amounts as quotas from the state

114 The current technocratic Government took office in December 2015 after a fire killed 64 people which led to massive protests against the left-wing led government which was in office between 2012 and 2015.

115 URL of the online platform: [www.transparenta-bugetara.gov.ro](http://www.transparenta-bugetara.gov.ro).

116 For more on these measures please consult: <http://ithub.gov.ro/>.

117 The platform is available online at: <http://maisimplu.gov.ro/>.

budget revenues – mainly from VAT and the income tax- toward the local budgets” (Dincă, Dincă, 2009, p.107), this being a certain limitation regarding financial autonomy, as these quotas need to be approved both by Ministry of Finance and Parliament (state budget law).

Although the Local Public Finances Law (Law No. 273/2006) introduced clear criteria regarding budget distribution and quotas, there are still certain ambiguities of the legal framework that lead to unfavorable effects regarding budget distribution. Distribution of financial resources for local public services (deconcentrated) is in most cases done based on subjective criteria as the law defines the general amount that will be offered for those services but not the criteria local authorities (county level) should use in order to distribute these resources, ending up with a system based on subjective, mostly political distribution of financial resources (Constantinescu, 2015). Along with the transfers from the national budget, the other two financing sources for local authorities are *local taxation* (local authorities have a 20% up/down margin of change) and *credit (loans)* that can go up to 30% of total local incomes. Overall, in 2014, local administration has contributed 25% of revenues for the national budget and 23.1% on budgetary expenditures.<sup>118</sup>

Another important issue is *self-financing capacity of local authorities* – the capacity of local authorities to finance the costs of their activity through their own resources. Unfortunately, self-financing capacity is quite low as data from the Ministry of Development and Public Administration for 2014 show that, on average, only 43.2% of local authorities revenues (city/town halls and county councils) come from own generated sources while the rest of almost 57% come from transfers from the state budget. As expected, big cities and in general more developed urban areas are able to contribute with own revenues to their budget in a higher percentage. The biggest problems are found in rural areas where only in 9 counties (out of 41)<sup>119</sup> town halls are able to fully generate the financial resources necessary to support basic personnel expenditures. This evidently drastically limits the level of autonomy that these local authorities have, leading to massive migration (political clientelism) of

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118 Source: National Institute of statistics.

119 A synthesis of this analysis is available online at: <http://www.analizeeconomice.ro/2016/04/cat-din-cheltuielile-de-personal-ale.html>, while full data are found on the official website of the Ministry of Regional Development and Public Administration, online here: [http://www.dpfbf.mdrap.ro/sit\\_ven\\_si\\_chelt\\_uat.html](http://www.dpfbf.mdrap.ro/sit_ven_si_chelt_uat.html).



mayors towards the party that comes into power in central government.

Surprisingly, this was intentionally encouraged by the central government through a series of measures: an increase of funds allocated by the central government through the Ministry of Regional Development towards local administration and a change in legislation<sup>120</sup> that offered mayors the chance to change the party they got elected with without losing their mandate (as the law provisioned until then). A thorough study (EFOR Policy Brief 45, 2016) done for the 2012–2015 period reached the following conclusions:

- Increase in funds destined to local administration<sup>121</sup> from the Ministry of Regional through the National Program for Local Development in 2013 coupled with the possibility to change parties for mayors and local or county councilors led to a migration of 552 mayors (approx. 17% out of a total of 3,181 mayors), 4,607 local councilors and 184 county councilors;
- 60% of the funds went to communes/town halls in rural areas;
- Probability to get financing doubled if mayors were in the same party in central government;
- Level of resources increased during the election years, and they were spent by local authorities on projects that were not urgent or remained unfinished after the election;
- Major factor leading to this is discretionary allocation of these funds as there are no legal criteria defined regarding how they will be allocated.

In the light of this, financial decentralization is more present formally through legal provisions, and has had a positive impact mainly on bigger communities (municipalities), the rural areas being unable to generate sufficient funds to cover own personnel and basic functioning costs. Recent efforts made by the central government to increase transparency by launching an online platform where the public can access openly information about budgetary execution (see previous section on reform) and public expenditures of almost all public institutions<sup>122</sup> is a step in the right direction.

120 The Government adopted an urgency ordinance (OUG) 55/2014 that was declared later unconstitutional by the Constitutional Court.

121 This was done through a urgency ordinance (OUG 28/2013).

122 The online platform can be accessed at: <http://www.transparenta-bugetara.gov.ro>.

Although decentralization in Romania played an important role in PAR and had a positive overall impact, several issues have troubled the process and minimized the potential positive effects:

- Inconsistency, lack of coherence, and strategic approach of the process have led to major problems relating to coordination of policy at local level (Dragoş, Neamţu, 2007), overlapping competencies between different administrative levels, or poor transfer of competencies (new responsibilities but without the necessary financial resources) (ibid., 2007: 639);
- Quality of services and general quality of the local governance process were very differentiated between local authorities, with the mediating variable being administrative capacity, especially decentralized financial capacity to finance public services (Bondar, 2014);
- Lack of coherence and strategic approach to the process has led to ambiguity and misunderstanding regarding the purpose of the reform by civil servants (Profiroiu, et al., 2006) which in turn has seen higher resistance from inside the system toward PAR.

**Regarding governmental agencies**, Romania has approx. 125 of them, with their number dropping from 225 in 2009 when, amidst the fiscal crisis, the government promoted a bill that abolished, merged agencies or transformed them into departments (Hintea, Hudrea, Balica, 2012: 313). Their formal inclusion as part of PAR started in 2001 with the Government Strategy on Accelerating Public Administration (GASPA) reform which focused on central government reform with clear elements of NPM –clear separation between political and administrative fields, and focus of central government on policy formulation and coordination (GASPA, 2001: 13). However, besides general remarks on the need of a more effective central government, no specific decisions or subsequent policies were adopted. It was not until the adoption of the *Strategy for Better Regulation in Central Government (2008–2013)* which specifically targeted central agencies that the focus was on improving legislation regarding organization, functioning, and regulation of central government agencies.<sup>123</sup>

The EU played an important role in the agencification in Romania, both through requirements during the accession process, regulations or requirements for specific agency type structures to manage or regulate certain policy areas (Hinţea, Hudrea, Balica, 2012: 316). The relation between parent minis-

123 Measure 7.1 from the Strategy for Better Regulation in Central Government (2008–2013).

tries and agencies, with respect to autonomy and control, is characterized by (adapted from Hințea, Hudrea, Balica, 2011, 2012):

1. *Concerning autonomy* – agencies have a quite high level concerning policy decisions on "how" to provide goods or services, medium level of autonomy regarding personnel management (higher levels of autonomy on operational decision but consultation with the parent ministry on strategic ones), and lower levels concerning financial management (with some influence on setting prices of goods/services but only with prior consultation with the parent ministry);
2. *Concerning control* – agencies tend to establish objectives with less control from the parent ministries as they mostly exercise ex-post control through evaluation of results and audits, and have a high level of (financial) resource dependency.

Lack of coherence and strategic approach is also found in the case of agencification process, lack of strategic vision regarding their role and evolution being a clear characteristic of the process (ibid. 2012: 321).

## 10.5. Conclusion

PAR in Romania is a complex and atypical process that did not follow a linear path with different stages that evolved at different speeds, influenced by quite diverse factors. Our analysis points out to at least four major stages (Hințea, 2011: 180):

- ***Legislative reform:*** more prominent in the first years after the Revolution but still present today. There are two reasons for this: the real need for a coherent legal framework specific for a democratic society, and a functioning state and a strong legalist tradition (which we documented earlier in this chapter);
- ***Reforms focused on structures and procedures*** (Baba, Chereches, Ticlau, Mora, 2009): new organizational forms, redefined administrative relations between institutions, new administrative procedures. Decentralization falls into this category with continuous redefinition of central-local government relations (Dragos, Neamtu, 2007), including mechanisms of control, level of autonomy, evaluation and performance measurement. Documents adopted starting from 2007 (see section 10.4.2) and even the current PAR Strategy devotes a major

section on structural adjustments, redefinition of institutional roles, responsibilities, along with better internal procedures.

- **Reforms focused on public policy:** these include specific policies introduced to resolve problems related to human resource management (HRM), financial allocation mechanisms, regulation reform, transparency, etc. They have been the most common form of changes (as expected) because of the limited costs implied, quick effects, and potential political capital gains for their promoters.
- **Structural reforms:** aim to bring a paradigmatic change, with a redefinition of the role, organization and functioning of the state, the purpose being an improved "rationalization" of state activities or actions. We point to the educational reform initiated in 2011, and the major changes taken between 2009–2011 mostly because of the financial crisis.

At present, Romania finds itself at the beginning of a new (fifth) stage of PAR – the adoption of a managerial paradigm of Western inspiration focused on two essential elements: *quality of services* and *performance management*. There are several initiatives that signal this paradigmatic shift. Although they still lack the "structural" character, they are encouraging signs – one such example is the introduction of the city manager as a specific public position in the local institutional framework; introduction of mechanisms meant to stimulate strategic planning efforts at the local level; adoption of ITC in order to increase transparency and public access to services (see financial monitoring mechanisms for budgetary execution adopted in 2016).<sup>124</sup>

Concerning general state reform, Romania is facing at least three strategic problems (Hințea, 2011: 192):

- **Predictability and coherence** (it is impossible to develop long-term strategies and policies because of frequent and unpredictable changes at the political, administrative, and legislative levels),
- **Managerial performance** (low managerial culture, and implicitly low quality of public management in governmental institutions),
- **Rational use of public resources** (linked to the first two, the issue being primarily how resources are used (subjective, irrational, corrupt conduct) not necessarily the lack of resources).

By time-framing the PAR efforts, we can distinguish:

124 The online platform is available at: <http://www.transparenta-bugetara.gov.ro>.

- The first strategic reform initiatives were adopted between 2000 and 2006 (section 4.2) mostly stimulated by the external pressures coming from the EC during the accession process.
- A second stage between 2007 and 2012 had more structural character, aiming a broader change (in large part due to the pressures of the economic crisis). This period has been characterized by a bigger comprehensive attempt to change key sectors of the state: education (new law on education), central government agency restructuring (reduction and re-organization of central agencies), labor market (adoption of a unitary public pay system to reduce inequality in pay inside the public sector), justice, pension system (new taxation rules and inclusion of social contributions also for retired citizens), fiscal management and budgeting (creation of Fiscal Council, attempts at making multi-annual budgets), and health care (which actually led to the fall of the government). The main drivers for these changes were again external (WB, IMF) in the context of the economic crisis.
- Finally, the third stage, starting with 2014, where a new Strategy for Public Administration Reform has been adopted along with a myriad of sectorial strategies. This is a major attempt from the government to translate Europe 2020 objectives and guiding directions into national policies. The purpose is twofold: (1) this new approach primarily aims to harmonize and reduce the gap between Romania and its Western counterparts with regard to the functioning of the state, and (2) offer the necessary guiding framework for local administration to implement local strategies in a coherent framework.

The examples mentioned above, (both those referring to structural reforms or sector specific ones) were selected because they showcase the specifics of Romania's PAR efforts in the last 25 years – a constant concern regarding the legal framework or a continuous "obsession" to professionalize the civil service and increase administrative efficiency. This combination (Hințea, 2011: 193) of bureaucratic objectives (professionalization, legal framework) with post-bureaucratic ones (performance standards, rationing of expenditures, open and transparent administration, stakeholder representation) illustrates very well a difficult challenge that the administration faces to create a system with both bureaucratic and post-bureaucratic features.

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## 11. Public Administration Reform in Bulgaria: Weberian Bureaucracy, New Public Management, and Good Governance at the Same Time

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### 11.1. Introduction and Country Overview

This chapter presents and analyzes the development of public administration reform in Bulgaria after the public transition from state socialism to democracy and market economy. The contribution explains the logic of the reform itself which began as part of the social transition but gained independence, and gradually adopted three concepts behind which stand influential international organizations. The administrative reform in Bulgaria reflects the development of ideas of public administration that these organizations disseminate. The different stages of reform correspond to the change in these ideas. For that reason, the reform seems infinite, without its own goal and without significant results that society and citizens can feel.

The chapter is divided into four parts. The first three parts represent three stages in the development of the reform. The focus is on the measures taken consecutively due to the breaking with the heritage of the state socialism, followed by the introduction of the model of Weberian bureaucracy, New Public Management, and Good Governance. The fourth part presents the development of the model of decentralization in the country. The conclusion is that the reform is not aimed at introducing a comprehensive model but rather at introducing particular practices that conform to the prevailing knowledge of public administration.

Bulgaria is a country with a population of 7,153,784 people as of 31 December 2015. This population represents 1.4% of the total population of the EU. As of the same date, the number of employees in the General Government sector was 224,400<sup>125</sup> representing 7.4% of the employed persons in the country. In 2008, the percent of people employed in the General Government

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125 According to data from the NSI available at: <http://www.nsi.bg/bg/node/14154>.

sector was almost the same – it amounted to 7.0%. Generally, the population of the country has decreased due to a relatively low birth rate and a high level of emigration. The number of employed people has also decreased – from 3,360,700 in 2008 it dropped to 3,031,900 in 2015.

The country's economy after 2007<sup>126</sup> developed in a way that is largely determined by the global economic and financial processes. In 2009, the GDP growth has dropped significantly – the *physical volume of GDP index* compared to the previous year (GDP by production approach in the previous year prices, million levs) was 95.8. After 2009, *GDP index* stabilized at circa 100 during the period to 2014 (subject to some variation). In 2015, the GDP index reached 103.0<sup>127</sup>. Despite relatively favorable indicators of economic development, Bulgaria is among the countries with a modest contribution to the GDP of the EU. In 2013, Bulgaria's GDP amounted to EUR 41 billion, representing 0.29% of the total GDP of the EU. The GDP in PPS for 2013 was EUR 86 billion. GDP per capita for the same year in PPS was EUR 45 thousand, assuming that for the EU it is EUR 100 thousand. In absolute terms, this is equivalent to EUR 5,800 for Bulgaria versus EUR 27,300 for the EU as a whole<sup>128</sup>. This indicator for Bulgaria has the lowest value among the EU Member States.

The service sector has the main contribution for the economic development. The share of employment in services (as % of total employment) is 62.2% (the relevant share for the EU is 69.7%). The share of employment in agriculture is 6.4% (5.0% for the EU)<sup>129</sup>. Overall, the data shows that Bulgaria has a favorable development prospect at a very low-starting economic base and development trends which hinder the country's ability to overcome the gap with the other EU countries.

Bulgaria has a similar performance when considering social indicators. Generally, the country is developing steadily, with positive trends, but the overall ranking remains relatively low, especially in comparison to other EU countries. According to the Human Development Index (HDI), Bulgaria

126 In 2007, Bulgaria acceded to the EU.

127 According to data from the NSI available at: <http://www.nsi.bg/en/content/5484/gdp-production-approach-%E2%80%93-total-economy>.

128 According to data from Eurostat available at: [http://ec.europa.eu/eurostat/statistics-explained/images/2/2d/GDP\\_at\\_current\\_market\\_prices%2C\\_2003%E2%80%9304\\_and\\_2012%E2%80%9314\\_YB15.png](http://ec.europa.eu/eurostat/statistics-explained/images/2/2d/GDP_at_current_market_prices%2C_2003%E2%80%9304_and_2012%E2%80%9314_YB15.png).

129 According to data from UNDP available at: [http://hdr.undp.org/sites/all/themes/hdr\\_theme/country-notes/BGR.pdf](http://hdr.undp.org/sites/all/themes/hdr_theme/country-notes/BGR.pdf).

ranks last among the EU Members States. Meanwhile, its progress is obvious. Bulgaria's HDI value for 2014 is 0.782 – which placed the country in the “high human development” category – positioning it at 59th place out of 188 countries and territories.

Between 1980 and 2014, Bulgaria's HDI value increased from 0.665 to 0.782 – an increase of 17.5%, or an average annual increase of about 0.48%. During the same period, Bulgaria's life expectancy at birth increased by 3.0 years, mean years of schooling increased by 2.6 years, and expected years of schooling increased by 3.2 years. Bulgaria's GNI per capita increased to about 117.2% between 1980 and 2014.<sup>130</sup> The progress is stable but relatively slow, and does not allow the country to reach the EU average values.

In Bulgaria and in other countries in Central and Eastern Europe (CEE), the transition period to democracy and market economy began immediately after the fall of the Berlin Wall. The political transition is controversial, and the country is slowly overcoming the legacy of the past. The year 1997 is considered as the year after which radical reforms became possible. The transition to a market economy at the institutional level was developed successfully in the early years of transition period. However, the economic recovery is happening slowly, as after the exceptional drop, the level of GDP achieved in 1989 was reached for the first time in 2005.

Bulgaria submitted its application for the EU membership in 1995, and in 2000, began accession negotiations with the EU. In 2007, along with Romania, the country became a full member of the EU. A specific mechanism for cooperation and verification was introduced, according to which the European Commission monitors and assesses the country's progress in implementing reforms. The mechanism was introduced because of the agreement that further efforts are needed in key areas to address certain weaknesses in the judicial reform and the fight against corruption and organized crime.

## 11.2. PAR Overview: Three Stages and Concepts of Public Governance

PAR in Bulgaria can be conditionally divided into three stages. The first stage developed in the early 1990's and ended around 1993–1994. During this first stage, the reform as far as it was about a comprehensive reform, was

<sup>130</sup> According to data from UNDP available at: [http://hdr.undp.org/sites/all/themes/hdr\\_theme/country-notes/BGR.pdf](http://hdr.undp.org/sites/all/themes/hdr_theme/country-notes/BGR.pdf).

strongly influenced by the agenda of the political transition. The second stage, which lasted until 2000, relates to the transfer of practices due to the financial dependence on global financial institutions and distribution of donor programs by various international organizations, including the EU. This second stage simultaneously introduced the reform concepts of traditional model of administration and New Public Management (NPM). The third stage, which continues to this day, is directed primarily to achieving the goal of the European conditionality. This stage enriches the reform with the concept of Good Governance. Each subsequent concept does not deny the previous one – on the contrary, they build upon such previous concepts. The emerging model of governance is a set of practices that meet the logic of the three concepts.

### 11.2.1. First Stage of the Reform From State Socialism to Democracy

PAR<sup>131</sup> in Bulgaria started immediately after the beginning of the changes and initially, at least until the mid-1990's, bears the marks of the transition from the state socialism to democracy and the attempt to break with the past. The bureaucracy inherited from the communist regime bears the scars of the previous social system, and is perceived more as a defender and conductor of the past. Its main feature is the relationship with the Communist Party. This relationship is expressed mainly in its selection based on political loyalty and affection as well as in its activities through which the will of the party is primarily implemented, regardless of the existence of formal law.

The assessment of the inherited bureaucracy in Bulgarian society at this moment is contradictory. On the one hand, its political dependence, and especially its commitment to the Communist Party are seen more as a problem. On the other hand, society takes into account its professionalism, and there are distinct attempts to protect and preserve it. The fact that a substantial part of the population is directly or indirectly associated with the inherited bureaucracy, and lives thanks to the employment in the government sector due to the size of the public sector during the communist period, should not be underestimated.

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131 For the purposes of this chapter, we assume that the public administration covers all organizations at the state, regional and local levels, involved in achieving public goals and supplying of public services with competences and responsibilities according to the law. These are professional organizations different from the representative political power, although they work together. Public administration is a specific concept emphasizing the openness and accountability of these organizations to the public and citizens.

The public debate on administration reform was not very strong during the first years of the transition, not only because of the controversial attitude towards the inherited administration but also because of the specific agenda of the transition period, which prioritized the transition to institutions and practices of market economy. In practice, the political programs of emerging parties do not resolve the problem of administration reform. At the same time, the need for change, including administration change, is perceived as something obvious. At the expert level, the position of almost all experts and politicians is that “almost nothing from the totalitarian period can serve the new structures and the new administration”. For this reason, the public administration reform enters the priorities of almost all cabinets after 1989 (Пеев, 2007: 1). The reasons for the change of administration mainly relate to the establishment of democratic institutions.

At the expert level, the need for change in the public administration is primarily associated with the need to reduce the size of the state and the redefinition of its role. „During the transition period, Bulgaria has to define the role of the state in the emerging market environment. The state, which has had a monopoly over all the economic spheres, has to withdraw in order to exercise its sovereign functions and to create the milieu for the performance of economic agents. This is a continuous process, implying privatization, de-monopolization, creating of competitive markets, etc. Therefore, this policy, which aims at improving the performance of public administration, is to be considered within the context of the broader objectives of public sector reform“ (Borissova, 2001: 1).

Thus, the beginning of the public administration reform goes in two directions. The first is related to the introduction of legal guarantees for political independence of the administration, whilst the second relates to the changing role of the state as a whole. The first goal was achieved very quickly and did not encounter any resistance or debate about what exactly should be done. The second goal is a matter of long transition which requires a comprehensive governance model.

The legislative change aiming at ensuring the political independence of the administration began in 1990 with the Law on Political Parties which removed and prohibited the activity of all political organizations and parties in the state, district, and municipal institutions. The legal framework of the model of the new administration was introduced with the drafting and adop-

tion of the new Constitution of the Republic of Bulgaria in 1991. Notably, this was the time when the foundations for a change of the state government were placed by introducing the principle of political independence of the administration. According to the Constitution, in the performance of their duties, public servants shall be guided solely by the law and shall be politically neutral. It is envisaged that the conditions under which civil servants are appointed and removed from office, may become members of political parties and trade unions, and may exercise their right to strike are established by law.

Although the immediate goal is the separation of administration from the Communist Party, the new Constitution sets a legal framework for the introduction of the Weberian model of bureaucracy, which applies only written law, and is politically independent. The new Constitution, however, „does not clearly define the role of public administration in the politico-administrative system“ (Пеев, 2007: 3). The main issues – the resolution of which could define the model of public administration – are not resolved by the Constitution, and the establishment of legal content is still not clear. In the first year after the change of the regime, the reform of public administration was not considered a strategic goal, and its role in a market economy was ignored (Пеев, 2007: 3).

In the first years of the transition period, the reform aimed at introducing the new governance model which started very timidly. In 1991, the Local Self-Government and Local Administration Act decreased central representation at the local level. According to the administrative-territorial division of the country, during this period of the reform, there were two levels of local administration – the regional and the district level. The region (*oblast*) is an administrative-territorial unit responsible for implementing regional policy, exercising state administration at the local level as well as harmonizing national and local interests. Regions are governed by a Regional Governor, and assisted by a regional administration. The district (*obshtina*) is the basic administrative-territorial unit in Bulgaria. It is governed by a mayor and locally elected council and administration. The self-government administration is located at the level of municipalities (*kmetstvo*) which are the smallest administrative-territorial units (Borissova, 2001: 5). This legislative reform was aimed at redistributing of power in the state through the empowerment of local communities. Thus, new actors in public governance were created, and the environment for the development of public policies changed dramatically.



### 11.2.2. Second Stage: Towards Traditional Administration and Public Governance through the Private Sector

The second period of public administration reform in Bulgaria started with the government's decision to include it as one of the major priorities of Phare assistance in 1993–1994. This new period had two major factors that distinguished it from the previous one. The first factor was the birth of a targeted donor funding the reform. Many international organizations became the donors, and the most influential among them were the World Bank and the EU. The second factor was related to the content of the reform – the „demand“ and gradual establishment of a Bulgarian model of administration and governance commenced. The main actors in the reform process were, on the one hand, the international financial institutions (IMF and World Bank), and on the other, the EU and the OECD through its joint project SIGMA. In March 1995, the Government made a policy statement in which it pledged to strengthen the authority of the State, rationalize the process of government, and increase its operational capability and efficiency. In September 1995, two interrelated structures were created to manage the administrative reform process: the inter-ministerial working group on Administrative Reform, which was part of the EU coordination structure, and the Department of Administrative Reform at the Council of Ministers. In March 1996, the Government adopted the “New Strategy of Administration Reform in Bulgaria” which focused on reforming central and local administration (Borissova, 2001: 4).

Notably, this second stage of public administration reform in Bulgaria took place when the debate on NPM and the fight for its impact on public sector reform in the country began. Thus, the same paradox which accompanies the whole process of social transformation took over the public administration reform in Bulgaria as in other CEE countries as there was an attempt to develop and implement models which were considered by the Western partners to be experimental and being in the process of development and implementation. The reform in Bulgaria represents less a transfer of models than a transfer of ideas and principles. Due to the break with the past and the institutional traditions, the CEE countries, including Bulgaria, are much more open to introducing such ideas and principles when compared to developed democracies. The latter transform their institutions, whilst the CEE countries create new institutions which fully comply with ideas dis-

seminated as correct. “The unique problem of East European governments is that they cannot draw lessons from their experience of the past four decades because post-Communist regimes are founded on a rejection of a Soviet-style regime” (Rose, 1993: 112).

This can also be observed with the distribution of the NPM. For over a century, the public administration in the West was inspired and built according to the notions of so-called „classic paradigm of the administration.“ In Europe, this paradigm is strongly influenced by Weber’s ideas about bureaucracy, and in the USA, the ideas of W. Wilson for rejecting the system of political patronage. The classical paradigm was functioning very successfully until the 1970’s, and then began a large-scale process of fundamental rethinking of management and attempts to distance the administration from its roots, leading to „endless wave of reforms“ that lead to the adoption of different, even opposing, models in different countries. Factors that mediated the creation of specific models in developed democracies were primarily internal and are related to the inherited institutions as well as the ideas of the key stakeholders in the reform of the public sector. In CEE countries, the factors were primarily external and relate to the ideas of influential international actors in the reform process as well as to the diffusion of ideas through the inclusion of internal experts in international epistemic networks.

The influence of the NPM in CEE countries was controversial mostly because of the position of the SIGMA – the leading international player in the reform process. After what was said about the power of the NPM creed, and seeing the frequent rule of neo-liberal governments in CEE states, some clarifications are needed. Firstly, while the public administration reform in CEE was promoted by various international organizations – SIGMA, the unit of the OECD to advise CEE on administrative reform and the most important agency dealing with the topic in the region (far more ubiquitous than the World Bank) – took a critical perspective towards NPM from the beginning. Therefore, in spite of pressure from other organizations and the understandable urge coming from the consultants and those CEE people engaged in reform who had learned about NPM in summer schools and training seminars in the “West”, and thus wanted to tout it, the classical perspective could usually prevail (Drechsler, 2005: 100).

The last statement is only partly true for Bulgaria. During the second

stage of the reform, Bulgaria preserved its preference for the classical Weberian model as regards the model of public administration (organization), and embraced NPM as regards the model of governance and delivery of services (functions and tools of implementation). The Bulgarian Public administration reform fully embraced the language and principles of NPM: client focus, decentralization, separation of policy-making from implementation, and use of private partners for service delivery.

Bulgaria's choices during the second stage of public administration reform were largely affected by the market reforms and approaches adopted by the global financial institutions (IMF and World Bank). The conducting of so-called „structural adjustment reforms“ included public administration reforms focused on reducing overall costs of the government mainly through privatization of state-owned enterprises, and reduction of the wage bill to bring government spending down to sustainable levels and free resources for other, more beneficial uses to the overall economy.

Additionally, Bulgarian experts, as a whole, embraced the ideas of NPM. The practices associated with these ideas were spreading as necessary, and were only possible in conditions of market regulation (Pavlov & Parashkevova, 2011; Katzamunsk, 2011; Georgiev, 1999).

- **Civil Servant Status**

During this second stage, the influence of the EU strengthened gradually. This influence is not just a consequence of donor assistance through Europaid but the political intention to join the EU. The impact was mainly carried out by the European Commission's report on Bulgaria's progress towards its accession after December 1995, when, on the fringes of the Madrid European Council, the country submitted its membership application, embarking on the road towards negotiations with the EU. The regular report of the European Commission in 1998 stated that: „The main central institutions of the state continue to operate smoothly in general, regardless of the known instability caused by the fact that the administrative reform is still at an early stage. The process of administrative reform is launched with the aim of creating an independent, efficient, and professional civil service. A number of initial steps have been taken for its implementation, particularly through the adoption of a strategy to modernize the administrative system and the law on public administration. They need to be complemented by other legislation.“

Regular reports drafted by the European Commission became an incentive for reform in Bulgaria.

In particular, in terms of administrative reform such reports contribute to the perception of classical Weberian model of public administration. The administrative reform was introduced by a number of laws on which the operation of the new public administration was based. In pursuit of the constitutional provision, the Administration Act has been adopted in 1998, Civil Servant Act and Administrative Services for Individuals and Legal Entities Act in 1999, and the Access to Public Information Act in 2000. In 2000, began the introduction of the status of civil servant by adopting the prescribed regulations – Regulation on the Official Status of Civil Servants and Regulation of the Minister of Public Administration for the documents to hold public office. For the first time, the positions of state officials in the administration are defined in the Unified Classifier of the Positions in the Administration.

The Administration Act regulates the structure of the administration, basic principles of organization of the operation thereof, positions therein, and principal requirements for occupation of the said positions. It regulates the powers of the executive authorities, structure and organization of the operation of the administration thereof. This Act applies to the administration of the other bodies of state power as provided by the Constitution and to the bodies of local self-government. The Act was amended in 2006 by introducing the principles that should guide the administration's activities: lawfulness; openness and accessibility; responsibility and accountability; effectiveness; subordination and coordination; predictability. In 2009, one principle was added: objectivity and impartiality. Depending on the distribution of activities, the administration is divided to general and specialized administration. General administration assists the relevant body of state power in the exercise of the powers therein vested, and the head of the respective administration creates conditions for the implementation of the activities of the specialized administration, and carries out technical activities for administrative servicing. Specialized administration, on the other hand, assists the relevant body of state power in the exercise of the powers therein vested, related to its competence. The activities of the administration are implemented by the civil servants and persons working under an employment relationship. The procedure for appointment and the status of civil servants are established by a

specific law (Civil Servant Act). Any employee working in the administration under an employment contract is appointed under the Labor Code. According to the functions executed, the positions in the administration are of the following type: managerial; expert; and technical. The Administration Act introduces the institution of political cabinet for the Prime Minister, deputy prime ministers, government ministers, chairpersons of state agencies, and regional governors. A political cabinet is an organizational structure which is assigned with advisory, control, information and analytical functions which assists the respective executive authority in the formulation and implementation of the government policy. The law defines the existence of two branches of the administration: central and local one, and the latter consists of regional and municipal administration.

The Civil Servant Act regulates the formation, content, and termination of a civil-service relationship between the State and a civil servant in connection with the performance of civil service. According to this Act „civil servant“ means a person who, by virtue of an administrative act on appointment, occupies a salaried tenured position in the state administration and assists a body of state power in the exercise of the powers thereof. By introducing a specific status of „civil servant“, the law creates a secure professional position that is independent of political interference.

With the adoption of these two laws Bulgaria joins the classical model of Weberian bureaucracy at least from the legal framework standpoint. Thus, the country is no exception to the way and the choice of the CEE countries that, for various reasons, are oriented in the direction of „classic continental career systems“. The German model is emerging as a dominant influence in most states, including countries from CEE (Verheijen, 1999: 330–331). Usually, this orientation is explained by the influence of the EU on public administration reforms, despite the absence of clear *Acquis Communautaire* in this area.

The question that arises is whether it is a choice between the Weberian model and the model of the NPM or linking them to a new model that characterizes the CEE countries. For developed democracies NPM appears as an alternative to the classical model due to the principle of orientation to the client rather than to the law. Thus, in developed democracies where the practices of NPM are implemented (and that means everywhere but to a varying degrees), the model of NPM changes the classical model. For Bulgaria the

classic model of administration is a precondition for adoption of the NPM model. Only a strong, professional, and independent administration may transfer functions on the implementation and even formulation of policies to the private sector. Thus, a new model of administration emerged – a hybrid between the classic model and the NPM. In this case the professional administration is oriented towards offering efficient services through partnerships with the private sector. Therefore, there is no „return to the continental roots of pre-1945“ (Verheijen, 1999: 330–331). It is more of outlining a new model in which the Weberian principles of professionalization of the administration are an integral part. This explains also why the contradiction between the ideas of public administration reform of major international actors – global financial institutions and SIGMA project – is only seemingly.

Some analyzes (Shivergueva & Nachev, 2011) explain the public administration reform in Bulgaria as a transition from the Weberian type of bureaucracy to the NPM. Actually, the two models merge through the accumulation of practices that meet the logic of one of the two concepts. Of course, the introduction of the logic of the NPM changes the classical theory of Weber's bureaucracy. While the NPM is aimed at the result, the classical model exists because of the rules. At the same time, the NPM is not possible without professional administration that has the qualities and capacity to achieve the result.

The second stage of the public administration reform in Bulgaria which laid down the foundation of the new model – a hybrid between classic model and NPM – differs from the first stage in that, inter alia, it is not bound either by the issue or the language of the transition from state socialism to democracy. The main issue is: „How to build a working administration?“ rather than „How to remove the old administration and replace it with a new one“. The first question is not a part of the typical agenda of transition. It is common for both old and new democracies, despite the identification of various problems in them. The old democracies must reform the classical model that does not meet the new challenges associated with the global processes, emergence of many actors in the policies, and growing influence of international organizations. Bulgaria as well as other new democracies have to meet the same challenges, but because they do not possess the basic institutions of the Western model, they must first perceive the classical model of administration.

The introduced classic model of administration continues to evolve, and

on a later stage, beyond the temporal limits of the second stage of the reform while retaining its main characteristics. The performance appraisal of public servants started in 2002. A compulsory competition was introduced in 2003 on taking up the public service, and the appointment was made through a competition based on professional merits. Commitments were introduced for the administration for further training of the public servants, including financial provisions for the training. The Institute of Public Administration has been established, having the task to organize and carry out education and professional training, and retrain public servants. Amendments have been made in connection with the development of the system of ranks, introducing five degrees for the junior and senior ranks (Operational Program “Good Governance” 2014–2020).

In 2006, the two main laws regulating the structure of administration and public service have undergone substantial amendments. The amendments introduced a distinction between the political and administrative level of the public administration. The category of the „senior civil servant“ was introduced. The opportunities for delegation of powers by the executive authority to the other officials of the respective administration were expanded. The competition arrangements were improved. The appointment of civil servants to a position under a service contract and for a part-time work was regulated. Centralized competition for junior experts was introduced, thus establishing a pool of young and highly educated people willing to work in the administration. Until now, 4 centralized competitions are conducted for junior experts and a national competition for people with disabilities for expert positions in the public administration. The principle of mobility for civil servants was introduced, regulating permanent and temporary mobility. The opportunities for professional training of civil servants were improved by increasing the eligible costs of training from 0.8% to 2% of salary funds.

In 2012, a new pay model for civil servants was introduced. The salary of civil servants was restructured by deleting the bonus for length of time, which is already included in the amount of new basic monthly salary of the civil servant. A new regulation is introduced regarding the bonuses that may be received by the civil servants by suspending the existing practice of the revenue from fees collected by the administrations to be used as a source of civil servants bonuses. The amount of performance bonuses that any civil ser-

vant may receive on an annual basis may not exceed 80% of the annual salary for the respective year. Eligible costs for performance bonuses in each administration are also defined in an amount of not more than 30% of the costs for salaries, wages, and social security contributions (Operational program “Good governance”, 2014–2020).

- **Corruption**

The hybrid model of public administration established in Bulgaria is characterized by a relatively high degree of discretion power given to the administrative structures. The level of discretion power could be assumed as an indication for adoption of the NPM model – the greater is the extent to which the administration can alone take a decision, the more is its ability to seek efficiency in the delivery of services to the citizens in accordance with the specific problem and situation. Quite the opposite – more regulated activities of the administration decrease its ability to maximize public benefits in a particular situation. Notably, the level of discretion power opens a space for practices of NPM that suggest solving of each case with a view to achieving optimal results.

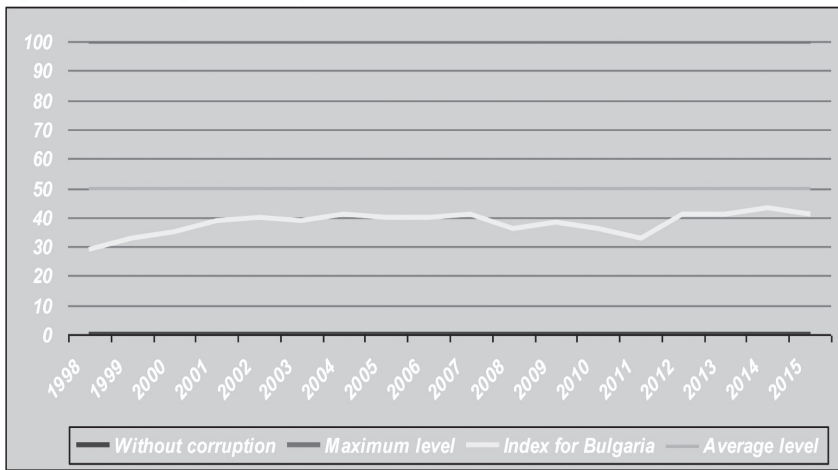
The comparative analysis of the public administrations reform in the CEE countries shows that Bulgaria is among the group of countries (together with Romania and Slovakia) where the adoption of the first civil service law is relatively late and happened after 1997. These countries are characterized by a high degree of discretion power (mostly over allocation and remuneration decisions). At the same time, and perhaps because of that, these countries have a relatively very high degree of politically induced changes in the administration after the change of its governments (Meyer-Sahling Jan-Hinrik, 2006: 16). Assuming that the discretion is an indicator of the perception of the NPM, Bulgaria is among the countries whose model of public administration is influenced by it to relatively great extent.

As a result of the relatively high degree of discretion, the hybrid model of public administration incorporates the preconditions for a high degree of corruption. The freer in its decisions the administration is, the likelihood of corruption pressure on it increases. The implementation of that likelihood depends on many other factors, including prevailing values and integrity of the administration that seem basic ones. Corruption in the administration is a very important problem according to the opinion of common Bulgarians



and the opinions of a number of international organizations (Пеев, 2007: 10). Objectively, the level of corruption in Bulgaria is very high. According to the Corruption Perceptions Index of Transparency International, Bulgaria is only at 69<sup>th</sup> place with a score of 41 (with a maximum score of 100) in 2015. It is the last country among the EU Member States according to this index (see Figure 11.1).<sup>132</sup>

**Figure 11.1: Corruption Perceptions Index**

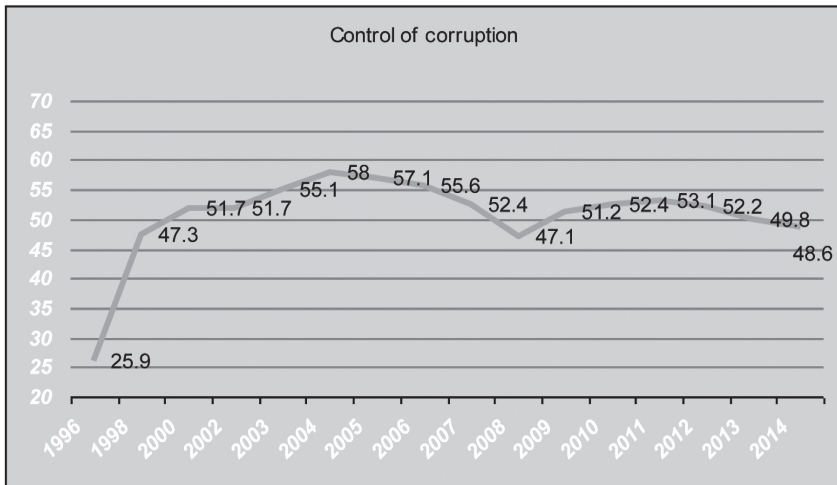


The high corruption in Bulgaria is very unfavorable indicator for which each activity of the administration is met by the public with doubt and disapproval in advance. There are a number steps undertaken to control the corruption. Fighting against it is a goal in two consecutive strategic documents. Important legislative measure in 2008 is the adoption of the Conflict of Interest Prevention and Disclosure Act that settles principles in terms of prevention and disclosure of conflict of interests of persons holding public office. This legislative measure is extremely important and is a clear signal of political will to resolve the negative phenomenon. Nevertheless, the control of corruption has not led to significant results so far. According to the World Bank Worldwide Governance Indicators, Bulgaria has a relatively poor per-

132 According to data retrieved from Transparency International: <http://www.transparency.org/cpi2015#results-table>).

formance on the control of corruption. In 2008, immediately after the accession to the EU, Bulgaria has had a very low percentile rank. In the coming years, its performance has been improving, even though slightly, but after 2012, it went down again (see Figure 11.2).<sup>133</sup>

**Figure 11.2:** Control on the Corruption (World Bank)

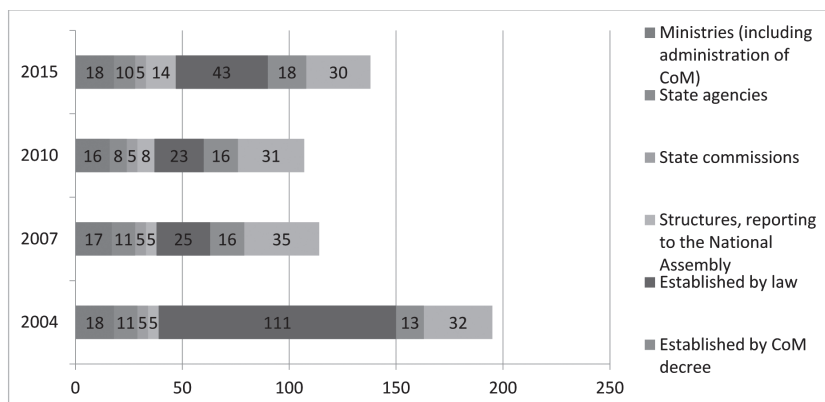


- **Agencification**

Along with the level of discretion power, agencification is a process that reflects the impact of NPM on the model of public administration. The establishment of agencies (according to the Bulgarian legislation, they are three types: „executive“, „state“, and „commissions“, as the last ones are regulatory bodies) is regulated by the Administration Act. In Bulgaria, there are dozens of agencies (see Figure 11.3).<sup>134</sup>

<sup>133</sup> According to data retrieved from WB: <http://info.worldbank.org/governance/wgi/index.aspx#home>.

<sup>134</sup> State of the Administration Reports available online at: <http://www.strategy.bg/Publications/View.aspx?lang=bg-BG&Id=81>.

**Figure 11.3:** Administrative Structures in Central Administration

The share of executive agencies operating within the Ministries is largest but has relative independence in carrying out their functions. The proportion of employed persons in these agencies compared to total employed persons in the administration is constant after 2011, and varies around 30%. In government agencies that are completely independent institutions and subordinated only to the Prime Minister, the employed persons represent around 5% of the administration as a whole. The share of employees in regulatory bodies (commissions) is also constant in the period after 2011. It is rather insignificant – about 1% (see Table 11.1).<sup>135</sup>

**Table 11.1:** Number and Percentage of Employees in Agencies (by Type)

	2011	2012	2013	2014	2015
<b>ADMINISTRATION OF THE EXECUTIVE AUTHORITY (TOTAL)</b>	<b>96,269</b>	<b>96,026</b>	<b>96,343</b>	<b>94,087</b>	<b>92,180</b>
<b>Growth in 2011=100%</b>	<b>100</b>	<b>99.7</b>	<b>100</b>	<b>97.7</b>	<b>95.8</b>
<b>CENTRAL ADMINISTRATION</b>	<b>54,919</b>	<b>55,014</b>	<b>54,966</b>	<b>53,009</b>	<b>51,338</b>
<b>Total share of the central administration in %</b>	<b>57.1</b>	<b>57.3</b>	<b>57.1</b>	<b>56.3</b>	<b>55.7</b>
1. Ministries and CoM administration*	6,908	7,206	7,081	6,843	7,070
Share of the central administration in %	12.6%	13.1%	12.9%	12.9%	13.8%

135 According to data retrieved from NSI: [http://www.nsi.bg/sites/default/files/files/data/time-series/Labour\\_1.1.5.xls](http://www.nsi.bg/sites/default/files/files/data/time-series/Labour_1.1.5.xls).

2. State agencies	2,771	2,754	2,764	2,821	2,631
Share of the central administration in %	5%	5%	5%	5.3%	5.1%
3. State commissions	500	525	513	504	499
Share of the central administration in %	0.9%	1%	0.9%	1%	1%
4. Executive agencies	17,963	17,736	17,743	16,551	15,763
Share of the central administration in %	32.7	32.2	32.3	31.2	30.7%
5. Administrative structures established by a legislative act which have functions in the implementation of the executive power	25,247	25,245	25,298	24,934	24,046
Share of the central administration in %	46	45.9	46	47.1	46.8
6. Administrative structures established by a legislative act reporting to the National Assembly	1,059	1,063	1,099	1,074	1,058
Share of the central administration in %	1.9%	1.9%	2%	2%	2.1%
7. Structures under Art. 60 of the Law on the Administration	471	485	468	282	271
Share of the central administration in %	0.9	0.9	0.9	0.5	0.5

Despite the adoption of agencification practices, they are rather not contributing enough to the improvement of the public governance. For their most part, they only imitate the British practices (Маринов, 2011: 85), and fail to achieve the autonomy and rationality of actions.

### 11.2.3. Third Stage: Towards Good Governance

The third stage of public administration reform in Bulgaria started with the launch of negotiations for full EU membership. The negotiation process started in February 2000 since the screening the EU employed to assess the candidate states ranked Bulgaria in what used to be at the time „the Helsinki group“ of countries admitted to begin membership negotiations. The state of the negotiations with the EU did not only indicate the achieved progress in various reform areas – it also triggered the reform effort itself and defined its timetable. What remained somewhat astride is that the public attention was the very nature of the EU enlargement negotiations. As opposed to any other type of diplomatic search for compromise, the format and the set of rules of these negotiations actually left little room for maneuvering of the candidate country (Velichkov, 2004). The impact of EU accession on public administration reform is not so unambiguous because the negotiations did not directly affect the mo-

del of public management. At the same time, at the European level, there is no single strategy for strengthening of the capacity of the state administration nor is there a unified model for its most effective functioning (Shivergueva, 2009).

In 2000, when Bulgaria comes into a negotiation process, the link between European integration and public administration reform seems to become stronger. The European Commission places great emphasis in the avis on the capacity of Member States' administrations to implement the body of European law (*Acquis Communautaire*) on schedule, although this had never been an issue in previous waves of accessions. Nevertheless, the link between the accession and the public administration reform stays an indirect one since there is no general body of European law in the public administration sphere. Just as individual Member States are free to frame their own constitution, they are free to organize their administration as they see fit. This is an issue that comes under the subsidiarity principle.

The EU's influence begins to show in the previous stage of the reform as the transfer of practices is provided through the PHARE program. Namely, the donor programs rather than the transposition of EU legislation are the basis of the affected by the EU public administration reform. While the EU makes funds available for the region as a whole, it is up to the national governments to use these funds efficiently (Michalak, 2012: 393) In the year 2000, one of the key recommendations of the Commission to Bulgaria as a candidate country made in the PHARE 2000 review was that the country should fundamentally revise and reconsider its public administration reform. In the 1998–2006 programming period, the PHARE's support for the reform of Bulgaria's state administration and judicial system totaled about EUR 304 million. The goals and outcomes expected from this support for the 2004–2006 period were set out in the Multi-annual Programming Document of the Ministry of Finance (MF). The focus of support in the area of state administration reform shifted from assistance to amending the legislative framework towards the problems related to its enforcement as well as to anti-corruption measures (Shivergueva, 2009).

Regardless the way of transfer – through the donor programs or negotiation process – the EU imports in public administration reform in Bulgaria the concept of good governance. In 2001, the EU adopted the White Paper on European Governance which defines the basic principles of administrations in the European area – openness, participation, accountability, effectiveness,

and coherence. These principles are the European interpretation of the concept of good governance. The essence of them and what distinguishes them from the previous models associated with the traditional model and respectively NPM is the openness of the administration to society and citizens. This openness which is expressed in the transparency of actions, accountability to citizens, involvement and participation of citizens in public policies is conceived as a precondition for effective achievement of public purposes.

Good governance is the third element in the public administration reform in Bulgaria, which upgraded the previous two – the traditional model of professional administration and NPM. The model of good governance brings new elements in the reform of public administration. It is a system of activities of the state, private, and civil institutions for cooperative formulation and sustainable implementation of public interest (Такев, 2009: 2).

The three concepts – traditional model of administration, NPM, and good governance – not only do they not contradict but also complement each other, and together form the content of the reforms that Bulgaria held. It is hard to say which of these concepts prevails in the adopted model. In addition, it is not a mechanical connection but creation of a fundamentally new model that does not fit fully into any one of the three concepts, although complying with the logic of each of them.

After 2000, the development of public administration reform in Bulgaria fully follows the process of Europeanization. In this process, Bulgaria faced two interrelated challenges: first, to develop administrative capacity in the areas directly related to membership obligations and second, to perform comprehensive modernization of the public administration (Katsamunskа, 2010: 53). Thus, Bulgaria meets the European conditionality, and at the same time, continues the reforms in the direction of the three elements that simultaneously shape the model of public administration and public management:

- **Support for introduction and development of the status and competence of professional administration. This element also includes modernization of the administration through the introduction of modern approaches and technologies in its work. Bulgaria returns to traditional models of administration but on a different technological level: both at instrumental and social perspective.**

In the third stage of public administration reform Bulgaria improved the

traditional model by changing legislation and practices. In 2006, important amendments were made to the two basic acts in this sphere: Law on Administration (LA) and Law on Civil Servants (LCS). The LA amendments were related to the implementation of the administrative reform: distinguishing the political from the administrative level in the state administration, regulating the policy-making process, and creating effective internal control (Shivergueva, 2009).

The E-Government Act was adopted at the end of May 2007. It lays the ground for a substantial reform in the administration work thanks to the introduction of new information technologies and the parallel use of paper and electronic documents. The law envisages the automation of administrative procedures, introduction of transparency in administrative processes, and reduction in the opportunities for corrupt practices as well as reduction in administrative costs (Shivergueva, 2009: 28). Bulgaria is falling behind the EU member states in the process of developing e-Government. Despite some significant results mostly related to the expansion of the volume of e-services, the overall performance of Bulgaria in connection with the introduction of e-governance is very low. According to the United Nations e-Government Development Index (EGDI) for the period 2003–2014 Bulgaria is extremely backward, from 35<sup>th</sup> rank at the beginning of the period, it fell to 73<sup>rd</sup> place at the end of it. It scored 0.5421 *in total* and is ranked the last among the EU Member States (see Table 11.2).<sup>136</sup>

**Table 11.2:** Index of the United Nations for the Development of e-Government for 2013 and 2014

Country	Rank 2014	EGDI 2014	Rank 2003	Rank Change
Bulgaria	73	0.5421	35	-38

The analysis of the reasons for this situation enables the identification of the necessary measures for its development to a level meeting the European requirements. Currently, three major reasons for the insufficient establishment of e-Governance in Bulgaria can be advanced: lack of interoperability of the administration information systems, lack of adequate electronic exchange between the administrations as well as unsolved issue of data unification (see Table 11.3).<sup>137</sup>

136 <https://publicadministration.un.org/egovkb/en-us/Reports/UN-E-Government-Survey-2014>.

137 According to data retrieved from NSI: <http://www.nsi.bg/en/content/6115/individuals-using-in->

**Table 11.3: E-Governance**

3.1. INDIVIDUALS USING THE INTERNET FOR INTERACTING WITH PUBLIC AUTHORITIES (LAST 12 MONTHS)						
Type of purpose	2008		2011		2015	
	%	Number	%	Number	%	Number
Total	<b>10.0</b>	595 015	<b>25.4</b>	1 390 314	<b>17.8</b>	986 529
Male	<b>8.8</b>	256 183	<b>25.1</b>	679 083	<b>16.6</b>	453 537
Female	<b>11.1</b>	338 832	<b>25.8</b>	711 231	<b>19.0</b>	532 992
Obtaining information from public authorities web sites	<b>7.9</b>	474 070	<b>20.3</b>	1 112 060	<b>16.0</b>	886 715
Male	7.4	214 225	<b>20.2</b>	545 649	<b>14.8</b>	404 715
Female	<b>8.5</b>	259 845	<b>20.5</b>	566 411	<b>17.2</b>	482 000
Downloading official forms	<b>5.9</b>	350 768	<b>9.4</b>	512 773	<b>12.9</b>	712 248
Male	<b>4.8</b>	140 396	<b>8.5</b>	230 221	<b>11.9</b>	323 952
Female	<b>6.9</b>	210 372	<b>10.2</b>	282 552	<b>13.9</b>	388 297
Sending filled forms	<b>4.1</b>	245 099	<b>10.1</b>	553 369	<b>9.1</b>	503 659
Male	<b>3.3</b>	96 313	<b>9.7</b>	261 874	<b>8.2</b>	222 449
Female	<b>4.9</b>	148 786	<b>10.6</b>	291 495	<b>10.0</b>	281 211

3.2. ENTERPRISES USING INTERNET FOR INTERACTING WITH PUBLIC AUTHORITIES																
Type of purpose	2004				2007				2011				2015			
	Total	By size class			Total	By size class			Total	By size class			Total	By size class		
		10-49	50-249	250+		10-49	50-249	250+		10-49	50-249	250+		10-49	50-249	250+
For obtaining information	<b>36.5</b>	32.7	47.7	66.4	<b>39.7</b>	34.6	58.9	73.6	<b>69.1</b>	65.5	83.9	93.4	<b>71.0</b>	68.0	83.8	91.1
For obtaining forms, e.g. tax declaration	<b>26.7</b>	24.1	33.7	50.5	<b>36.5</b>	31.5	55.1	70.2	<b>74.7</b>	71.2	89.3	97.4	<b>75.8</b>	72.8	89.1	93.6

ternet-interacting-public-authorities and <http://www.nsi.bg/en/content/6149/enterprises-using-internet-interacting-public-authorities>.



For returning filled in forms	8.7	7.2	12.3	25.4	29.5	25.1	45.0	64.6	65.8	61.1	86.1	93.8	75.7	72.8	88.7	93.4
For submitting a proposal in a public e-tender system	.	.	.	.	6.6	5.4	10.8	16.9	7.7	7.4	9.2	10.5	.	.	.	.

In the field of administrative services, an assessment of the effectiveness and efficiency of the administration has been introduced. The administrative service in the administrations is monitored and analyzed through the Administrative Service Self-Assessment System, developed based on the model of the European Foundation for Quality Management which collects data on processes related to administrative services in the country and provides an opportunity to measure the quality of services and performance of administrative services. Queue Management Systems are introduced in the administrations servicing a large number of users in a total of 50 administrations throughout the country, illegal schemes at the municipal level are removed, and rates of state taxes administered at the central level are reduced. From a total of 517 administrations providing administrative services, 396 administrations provide services on a „one-stop shop“ principle, which attains 76.60%. An important legislative measure in 2008 has been the adoption of the Conflict of Interest Prevention and Disclosure Act that settles principles in terms of prevention and disclosure of conflict of interests of persons holding public office (Operational program “Good governance” 2014–2020).

- Expansion and regulation of practices related to the NPM. This element is aimed at developing the regulatory capacity of the administration and the expansion of economic freedom. Additionally, within this element of the public administration reform it is foreseen such development of the administration (and the public sector as a whole) which is consistent with the logic of structural adjustment reform.

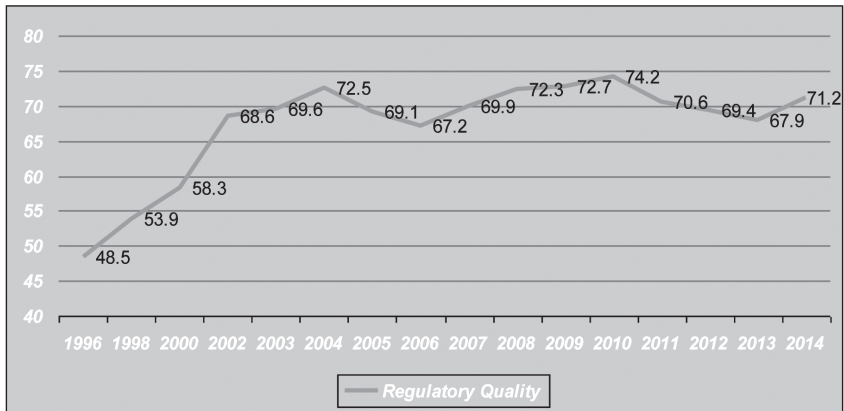
In direction of this development, Bulgaria undertakes multiple steps. In 2006, with the enactment of the Administrative Procedure Code and the repeal of the Administrative Services to Individuals and Legal Entities Act, the legislation in relation to administrative services is codified. From that moment onwards one and the same procedure is used both for administrative services to individuals and legal entities as well as for the issuance of individual administrative acts. The procedure for exercise of judicial review on administrative acts is unified. The administrative service rules are described in details with the adoption of the Regulation on Administrative Services (Operational program “Good governance” 2014–2020).

Restricting Administrative Regulation and Administrative Control over Economic Activity Act has been adopted in 2004, whose aim is to facilitate and encourage the pursuit of economic activity by means of restricting, to socially justified limits, the administrative regulation and administrative control exercised over the said activity by the state bodies and by the bodies of local self-government.

In PAR in Bulgaria a great importance is given to the creation and development of regulatory capacity of the administration. The introduction of this element of capacity involves a combination of freedom for economic operators and ability of the administration to establish the rules for their operation in a way that the achievement of public purposes (including private sector development) will be guaranteed. The World Bank Worldwide Governance Regulatory Quality Indicator captures perceptions of the ability of the government to formulate and implement sound policies and regulations that permit and promote private sector development. The performance of Bulgaria on this indicator is relatively good (see Figure 11.4). In fact, if there is a comparison of the performance of the country on all governance indicators of the World Bank, the result for the regulatory quality would be that it has the highest percentile rank. Its performance is relatively stable in time, as it is best in 2010, and then there is a decrease which has not yet been recovered.<sup>138</sup>

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138 According to data retrieved from WB: <http://info.worldbank.org/governance/wgi/index.aspx#home>.

**Figure 11.4:** Regulatory Quality according to the World Bank

For the purpose of regulation of one of the most important principles of the public administration – to increase its efficiency and effectiveness, in 2012, a prohibition on increasing the total number of executive administration is introduced. During the reviewed period, an optimization of administrative structures is consistently carried out in order to ensure a balance between normative statutory powers of the authority, functions and size of organizational units, and necessary and readily available human and financial resources. In the period of 2005–2009, the administrative structures and sub-delegations to ministers have been optimized with the total of 17,060 number of posts representing 10.5% optimization (Operational program “Good Governance” 2014–2020).

Because of these measures, the total number of administration in the structures of the executive power remains stable until the end of 2013 and then it began to steadily decline (see Table 11.4).<sup>139</sup>

<sup>139</sup> According to data retrieved from NSI: [http://www.nsi.bg/sites/default/files/files/data/timeseries/Labour\\_1.1.5.xls](http://www.nsi.bg/sites/default/files/files/data/timeseries/Labour_1.1.5.xls). The data do not include the employed persons in the Ministry of Interior and the Ministry of Defense.

**Table 11.4:** Data for Employed Persons in the Administration

	2011	2012	2013	2014	2015
ADMINISTRATION OF THE EXECUTIVE AUTHORITY (TOTAL)*	96,269	96,026	96,343	94,087	92,180
Growth in 2011=100%	100	99.7	100	97.7	95.8
I. CENTRAL ADMINISTRATION*	54,919	55,014	54,966	53,009	51,338
Total share of central administration in %	57.1	57.3	57.1	56.3	55.7
II. LOCAL ADMINISTRATION	41,350	41,012	41,377	41,078	40,842
Total share of local administration in %	42.9	42.7	42.9	43.7	44.3

- **Expansion and regulation of practices related to the concept of good governance. This element of the reform is aimed at changing relationships between the administration and the society.**

This element of the reform in Bulgaria, which is seen as a major, even unique, in the researches since 2000 (Tanev, 2009; Katsamunska, 2010), includes a series of legislative changes, regulations of practices, measures to develop the capacity of both the administration and stakeholders.

In 2000, Access to Public Information Act is adopted. It is an essential part of the legislation, regulating openness and transparency of public information. Until Bulgaria's accession to the EU, this Act has been amended twice, in January and April 2002, in order to be consistent with the new Law on Personal Data Protection (effective from 1 January 2002) as well as with the Law on the Protection of classified information (30 April 2002).

Access to Public Information Act formulates the principles applied upon exercise of the right of access to public information: openness, truthfulness, and comprehensiveness of the information; ensuring access to public information on equal terms; ensuring legality in seeking and obtaining public information; protection of the right to information; protection of personal data; safeguarding the security of society and the State.

The process of policy development has been regulated – in the implementation of the strategic goals, the executive authorities are required to set annual targets for the activities of the respective administration and control their execution. The principle of annual reporting for the administrations has been introduced in the implementation of the strategic objectives and priorities set in the program of the Council of Ministers.

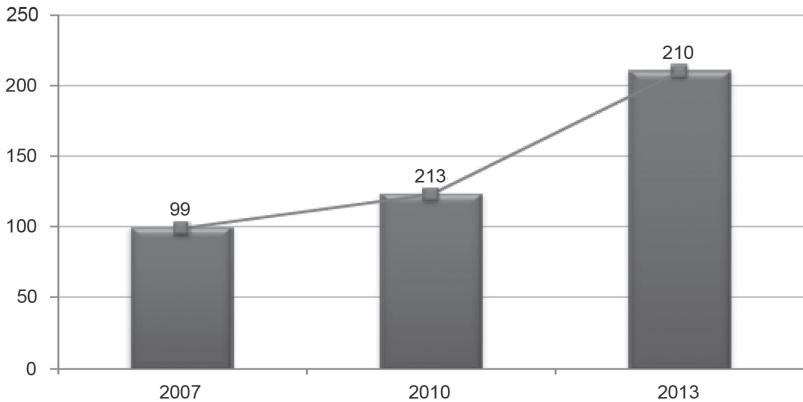
The progress in this element of the reform is perhaps one of the most difficult. It does not depend only, even at least, on the regulatory requirement. It presumes the creation of a capacity to manage the process of public policy, which means at least two things: ability to formulate objectives based on rational methods, and ability to interact with stakeholders. Largely, the training of public administration organized under the Institute of Public Administration addressed this challenge.

State bodies are legally bound to coordinate their activity and to consult social economic partners (SEP) and civil society in order to guarantee an integrated state policy. The coordination mechanisms as well as the process of consultations aiming at including a broad range of stakeholders are an important part of the process of policy-making (strategic planning, impact assessment), policy implementation, and assessment of the achieved results. All regional and almost all municipal administrations have also established advisory and coordination mechanisms. The functioning of committees, councils, and working groups is also an operational way for the interaction of the central administration with the regional and municipal administrations with the objective of achieving the goals of local self-government and regional policy. Common regulations are established for the Advisory Boards. Rules have been introduced to increase accountability, transparency, and interaction with stakeholders.

In Bulgaria, there is a strong fragmentation in the field of strategic planning and a huge number of strategic documents (see Figure 11.5).<sup>140</sup> There are about 550 strategic documents, including 210 at the national level. The large number of documents and poor coordination in their preparation create difficulties in achieving coherence of initiatives planned. Institutions have not yet established the mechanisms for joint implementation of strategic goals, and often develop their individual documents, projects, and initiatives that are not always aligned with the Common Strategic Framework.

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140 State of the Administration Reports available online at:<http://www.strategy.bg/Publications/View.aspx?lang=bg-BG&Id=81>.

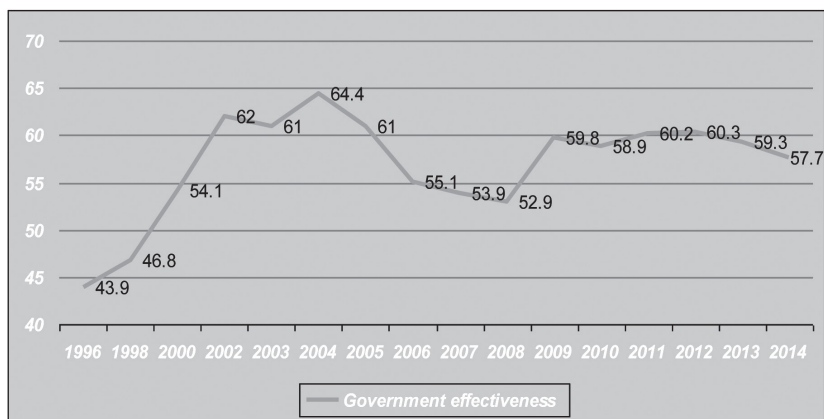
**Figure 11.5:** Strategic Documents at the National Level

All the three elements of the reform are aimed ultimately at the search of efficiency of achieving public goals. Practices, however, cannot be reduced to one single concept. It seems to be wrong to look which concept prevails. It is rather spontaneously outlining a model that does not exist anywhere but corresponds to the today's challenges. The way to this model is a way without a preliminary plan. Separate practices are introduced corresponding to the prevailing paradigm at the time of their introduction: traditional model, NPM, good governance. Which paradigm prevails depends mostly on the international and supranational commitments of the State, which are a result of financial dependence (IMF), donor programs (World Bank, EU), or voluntary inclusion in general political and normative space (EU). This does not mean that there is no pattern. Simply, this model has not yet been fully delineated. For the moment, it is a set of practices and the public administration reform seeks to continuously improve them without a clear agreement on the stakeholders' and experts' perspective about what actually is the purpose of their perception.

Despite the lack of a clear governance model towards which the reform of public administration is aimed because of the demand of efficiency, it can be assumed that it is a general indicator of its operation and application. According to the methodology of the World Bank, general Government Effectiveness Indicator captures perceptions of the quality of public services, quality of civil service and degree of its independence from political pressu-

res, quality of policy formulation and implementation, and credibility of the government's commitment to such policies. The indicator itself mixes characteristics of the three concepts that define the content of public administration reform in Bulgaria. According to this indicator, the performance of the country is rather modest. It has the lowest representation in 2008, and then there is a positive trend of growth of percentile rank but keeping levels of about 60 (see Figure 11.6).<sup>141</sup> After 2013, the positive trend is interrupted, and the percentile rank begins to decline.

**Figure 11.6:** Government Effectiveness World Bank



The interpretation of the above data is not unambiguous. The qualities of the model of public management and administrative capacity are a necessary precondition but not sufficient condition for improving public services. As the methodology of the index includes, among other elements, an assessment of the state of public schools, basic health services, drinking water and sanitation, electricity grid, transport infrastructure, maintenance and waste disposal, it is obvious that the relatively poor performance of the country is linked to problems in some of these sectors.

PAR, even if successful, could not lead to quick and immediate results in improving public services. However, this is not an explanation that satisfies the audience. On the contrary, the results that are not achieved are constantly

141 According to data retrieved from WB: <http://info.worldbank.org/governance/wgi/index.aspx#home>.

undermining the confidence in PAR. The distrust of citizens makes policy-makers to change the direction and seek for new solutions. This makes the reform continuous and the public governance model – elusive. This brings to the paradox that the reform itself is successful because it is moving in the right direction, and introduces practices that meet its basic principles but its results are unfavorable. The problem is whether this is a matter of time, or it is a matter of model and unsatisfactory results will recur.

It is hard to talk about generic weaknesses of the model of public governance that combines the principles of traditional bureaucracy, NPM, and good governance. The main reason for this is that the model is a spontaneous response to the adaptation of governance to modern challenges, and in this sense, it is constantly evolving. The main advocates and promoters of this model (Global Financial Institutions and EU) distribute more principles, best practices, and assessment indicators than the models. This does not mean that we cannot talk about the weaknesses of the model in its implementation in practices.

The model of public governance to which the public administration reform in Bulgaria has been targeted has one significant weakness. It is linked to the unresolved political dependence of public administration, which continues to exist despite the legislative framework. The political dependence is expressed in mass replacement of administrative staff after the change of the Government, in taking a position in the administration because of political commitment and loyalty, as well as the influence of the political party in power in the exercise of discretion power.

The existence of these phenomena and determining their scope can hardly be supported by data. This condition is rather intuitively felt by both experts and citizens. There is an agreement between them that political dependence of the administration is widespread.

However, this calls into question the existence of the traditional model of bureaucracy which as an attempt to be proved in the current model of governance is a precondition, a basis for the occurrence of other elements of the reform – the introduction of NPM practices and good governance. If there is something that must immediately be reformulated in the PAR model, it is how political independence and professionalization of the administration have to be guaranteed – in law and in practice.



### 11.2.4. More Centralization than Decentralization

The introduction of the territorial model for the distribution of power in Bulgaria starts – as it was always noticed – at the very beginning of the societal transition – in 1991. According to this model that has been more developed than changed during the following 25 years, the vertical distribution of power consists of three levels: central, regional, and local level. Two levels in the territorial administration – regional and local – have a fundamentally different nature. While the first is a territorial extension of the central level, the second is built on the self-governance principle.

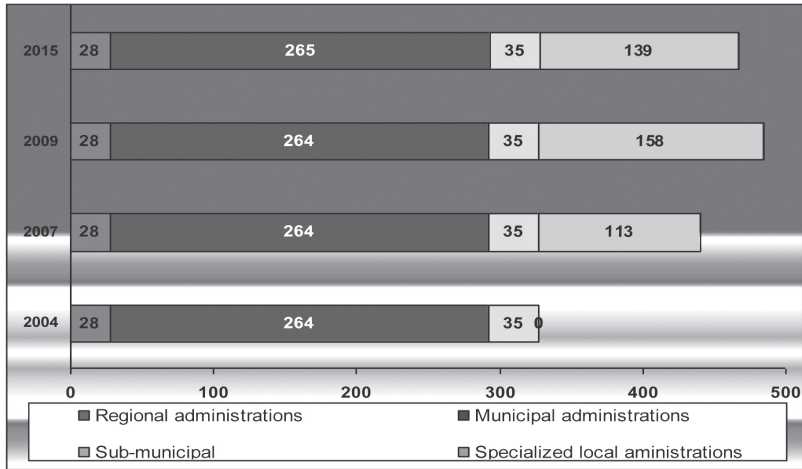
- **Administrative and territorial structure**

Administratively, the Bulgaria's territory is divided in 28 regions and 265 municipalities. For approximation with the European requirements for Nomenclature of Territorial Units for Statistics (NUTS), Bulgaria is divided into: 2 non-*administrative*-territorial units (North and South Bulgaria) at NUTS 1 level; and 6 planning regions at NUTS 2 level (Стефанова, М. Калфова, Е. 2004). The 28 regions, which are the second level in the vertical distribution of power, are defined as territorial units at NUTS 3 level (see Figure 11.7).<sup>142</sup>

Regions (*oblasti*) are administrative units of the central government. They comprise one or several neighboring municipalities. The region administrations are financed directly by the central government budget. At the regional level, the main institution is the regional governor who is one-man body of the executive power. He/she implements the State governance regionally, and ensures the compliance between national and local interests on regional policy realization. Once more, he/she leads the regional administration.

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142 State of the Administration Reports available online at: <http://www.strategy.bg/Publications/View.aspx?lang=bg-BG&Id=81>.

**Figure 11.7: Administrative Structures in Local Administration**

The regional governor communicates with local self-governance bodies in the region, executive power bodies, and other institutions that are not part of the executive system. His/her activity is directed to the State policy implementation, and its coordination with locally formulated policy aims.

The municipalities are the basic administrative-territorial units carrying out local self-government. They are established by the Council of Ministers according to a procedure specified in the Law on Administrative and Territorial Structure of the Republic of Bulgaria. Mayoralties and districts are composite administrative-territorial units of municipalities. The municipal administration supports the activities of the municipal councils and the mayors of municipalities, districts and mayoralties. (Data for employed persons in the local administration – see Table 11.5).<sup>143</sup> The mayor is the executive body in the municipality. He/she manages all municipal executive activities, organizes the disbursement of the municipal budget and implementation of long-term programs, organizes the implementation of the municipal council acts, and participates in its sessions with the right to an advisory vote, approves the Rules of Procedure of the Municipal Administration.

<sup>143</sup> According to data retrieved from NSI: [http://www.nsi.bg/sites/default/files/files/data/time-series/Labour\\_1.1.5.xls](http://www.nsi.bg/sites/default/files/files/data/time-series/Labour_1.1.5.xls).

**Table 11.5:** Data for Employed Persons in the Local Administration

	2011	2012	2013	2014	2015
<b>LOCAL ADMINISTRATION</b>	<b>41350</b>	<b>41012</b>	<b>41377</b>	<b>41078</b>	<b>40842</b>
<b>Total share of local administration in %</b>	<b>42.9</b>	<b>42.7</b>	<b>42.9</b>	<b>43.7</b>	<b>44.3</b>
1. Municipal and sub-municipal administrations	32,835	32,283	32,791	32,830	33,117
<b>Share of local administration in %</b>	<b>79.4</b>	<b>78.7</b>	<b>79.2</b>	<b>79.9</b>	<b>81.1</b>
2. Regional administrations	1,455	1,560	1,398	1,235	1,109
Share of local administration in %	3.5%	3.8%	3.4%	3%	2.7%
3. Specialized local administrations	7,060	7,169	7,188	7,013	6,616
Share of local administration in %	17.1%	17.5%	17.4%	17.1%	16.2%

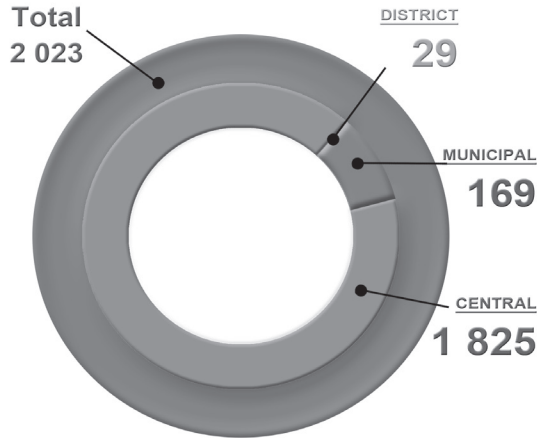
The legal and organizational framework of local government system in Bulgaria is based on many legal acts. The most important one is the Constitution. According to it the municipality is the main (and so far the only) tier of local government in the country. The Constitution ensures the political basis of decentralization in Bulgaria – local government and the mayor are directly elected by the population of the municipality. This regulation is a precondition for achieving a considerable independence of communities from the central government. However, municipalities do not have their own independent powers defined in the Constitution – they receive or lose them by law, i.e. powers of municipalities derive from the parliament (Kalchev, 2008:1–2).

#### • **Financial Decentralization**

Municipalities have their own independent budget and property, which can be used to serve their interests. Public services funded by municipal budgets are divided into two categories: activities delegated by the state and activities delegated by local activities. The delegated activities are financed by state transfers (grants, subsidies), and the local activities – by local revenues (local taxes, user charges, rents of property, privatization, etc.). Local governments can also borrow directly from the financial market but some restrictions are laid down by legislation (Kalchev, 2008: 1–2).

In recent years, the dynamics of the development of administrative services lags behind. In 2013, the administration provided 2023 types of administrative services to the citizens and businesses (see Figure 11.8).<sup>144</sup>

144 According to data retrieved from: <http://www.strategy.bg/StrategicDocuments/View.aspx?lang=bg-BG&Id=891>.

**Figure 11.8:** Types of Services Provided by Central and Local Administrations

The introduction of the decentralization model is one of the first substantial institutional changes that come into the agenda of the transition from totalitarianism to democracy. Decentralization despite its concrete forms counts towards retrenchment of the state's size and role and therefore responds as a policy tool to the main ideas used for grounding the liberal changes in the CEE countries at the beginning of the 1990s. It also conforms to the ideas of democratization insofar as through it the governance approaches the citizens and their direct needs. In addition, it gives rise to new empowered actors – process that is also connected with the ideas of democratization for the sake of state monopoly over the policy-making limitation.

Nevertheless, due to its compulsory presentation in the transition agenda, the decentralization model is not at all predetermined neither obvious. Its shaping falls at cross purposes because the main objectives of the transition are or can be conflicting. The first objective is related to democratic institutions, building and shortening of the distance between the power and the citizens. Its achievement supposes more functional and financial detachment of the self-governance level – the municipalities. The second is connected with the financial stability and economic recovery attainment through the IMF receipts that include, among other things, so-called “structural adjustment reform”. The second objective achievement presumes a strong control over

the public outlays through the concentration of this function in state's grasps.

These two objectives – one for the democratization and one for the structural adjustment – are not equal in value. The first is publically supported; the second concerns more the expert debate. Furthermore, the structural adjustment can be perceived as a tool for achieving the main transition aims. However, it has a significant importance for the choice of model. In the specific case of Bulgaria the second objective obtains more importance because of the international financial institutions' influence over the transition policies. This influence is a consequence of the country's financial dependence but the adoption of the ideas spread by them is supported and expanded by the internal experts that embrace this line of social development. As a result of the significant influence that the IMF receipts gain during the first years of transition, the Bulgarian choice toward decentralization is inwardly contradictory – the introduced model devolves functions to the municipalities, nevertheless it does not create financial preconditions for their fruition.

Thus, after the initial legislative change, when in 1991 the decentralization model was enacted, until at least 1997, when an active alteration of the self-governance legislative framework is undertaken, the major problem faced by the local authorities was the discrepancy between their powers and functions on the one hand, and the insufficient resources at their disposal on the other (Shivergueva, 2009: 15). The steps to decentralization model adjustment do not succeed to resolve this problem, and continue to persist while the changes are launched. However, the model advances in searching more decentralization.

As a matter of fact the decentralization model development starts before 1997 to a great extent under the influence of the EU and the accession process. As a rule – and this concerns the whole process of PAR – when the EU increases its influence over the country policies (for Bulgaria it happened around 1995, when the country entered the application for full membership, and the Commission started its work on the official position about this request development), the IMF's role lessens. The international organization has been markedly evident since 1997 when the Currency Board practices were introduced, and the financial stability seemed assured.

The EU spreads in policies, including in the choice of governance model, with a more socially grounded view that enriches the neo-liberal project with

the ideas of citizens' and local communities' rights. At a large extent, due to the European influence, the decentralization process shifts in searching bigger financial independence of the municipalities, and in extending the authorities devolution to the local bodies. The self-governance institutions increase their policy independence as well as their abilities to distribute the resources from the state budget on their own. The development of the property and financial grounds for the self-government and the decentralization start with the enactment of the Municipal Property Act in 1996. In the following two years, Local Taxes and Fees Act and Municipality Budget Act are passed. The structural adjustment aim is not abandoned. It is simply enriched with the idea of the governance that is close to citizens.

Meanwhile in 1996, the National Association of Municipalities (hereinafter: Association) in Bulgaria is founded with the participation of one third of municipalities in the country. In 1997, the number of participating municipalities increases and attains two thirds. Thus, the Association acquires the right to become a legitimated representative of the local power, represent and defend its interest. 264 out of 265 Bulgarian municipalities belong to the Association. Even though it is not a matter of formal law included in the institutional system of state policy-making, it becomes an active participant in this process.

Signed by the end of 2001, the Decentralization Agreement between the Government of Bulgaria and the National Association of Municipalities outlines the main problems and the fields that need changes. As a result of the Agreement the following measures are undertaken in 2002:

- Working group for developing the suggestions on main legal acts changes is created by a decision of Council of Ministers;
- Financial decentralization framework for the period 2002–2005 and a plan for its implementation are adopted;
- Decision for the division of activities founded through the local budgets by local activities and activities delegated by the state is made by The Council of Ministers. Standards for the number of municipality employees and for the maintenance of activities delegated by the state are introduced.

During the following years, changes in the main legal acts are amended incrementally. These changes comprise the introduction of tax decentralization practices. The main ground for them is the need to widen financial

independence of the municipalities which is perceived as the essential prerequisite for a better economic and social development of the local communities through the self-governance tools.

Five local taxes were enacted since 1997. However, local municipalities only administered these taxes, acting mostly as tax collection agencies, without the ability to add new taxes or determine the tax rate or the tax base (Kalchev, 2008: 4). Since 2008, local municipalities have not only been collecting these taxes but have also determined their size (tax rate). In addition to the already existing five local taxes, another one was added – the trade license tax (patent tax), which was a national tax until recently. On the other hand, the central government eliminated the partial transfer of personal income tax from the central government to the local governments. These specific steps towards fiscal decentralization could only be enacted through the changes in the Constitution. So far, the Constitution forbade determining the local taxation parameters by the local authorities. However, since 2008, the Constitution permits the local authorities to determine the size of local taxes according to and within the limits (ranges) provided by law. Changes in the Constitution were followed by the changes in the Local Tax and Fees Act which empowered the local authorities to determine the effective tax rates within a predefined range (For municipal revenues see Table 11.6).

In spite of these changes, the taxing power of municipalities is very limited. The central government controls more than 70% of local budget revenue without bearing responsibility for the quantity and quality of the public services provided to the local residents. Local authorities in Bulgaria do not enjoy real tax autonomy, cannot influence revenue from local taxes, and have, in fact, a limited access to capital markets (Kalchev, 2008; Stoilova, 2009).<sup>145</sup>

**Table 11.6:** Municipal Revenues (in millions of leva)

	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013
Municipal revenues – total	2,333	2,694	3,238	4,077	5,491	4,761	4,637	4,548	4,577	4,907
Own revenues – share	35.2%	34.9%	37.5%	40.8%	32.4%	31.9%	32.7%	36.6%	37.1%	36.8%

145 According to data retrieved from Ministry of Finance: <http://www.minfin.bg/bg/page/19>.

Despite the effectuated changes, the financial state of municipalities has not improved considerably. Just the other way round, because of the economic crisis as well as because of the exceptionally uneven economic development of the country, the mean share of the own municipal revenues has decreased. In 2010, the biggest reduction was due to the decrease in the revenue from the municipal property management. Nowadays, the property management has become one of the main challenges of the local administrations (Ботев Йордан, 2015).

The development of decentralization model elicits certain changes in proportion of the outlays for local activities in the municipal budgets. The trend is toward a slight increase in the expenditures of local activities' share (See Table 11.7).<sup>146</sup>

**Table 11.7:** Expenses in Municipal Budgets (in millions of leva)

	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013
Costs for local activities	1,058	1,371	1,727	2,381	2,862	2,566	2,365	2,297	2,287	2,449
Share	45%	51%	53%	58%	58%	54%	51%	50.5%	50.3%	50.1%
Cost of government activities	1,275	1,323	1,556	1,696	2,111	2,194	2,272	2,251	2,287	2,459
Share	55%	49%	47%	42%	42%	46%	49%	49.5%	49.7%	49.9%

One of the main problems, which the introduced decentralization model elicits, is the extraordinary uneven development of municipalities. Their indebtedness measured through the size of the debt as a share from the own revenue and the state subsidy range within wide limits – from 0% to 243% according to the data for 2013 (Ministry of Finance: <http://www.minfin.bg/bg/page/19>). The same data show that a relatively small number of municipalities have overdue charges. Just two of them have a debt which as a share of the revenue exceeds 100%. The uneven territorial development is confirmed from the data for the GDP per capita that are figured at NUTSII and NUTSIII level (see Table 11.8).<sup>147</sup>

<sup>146</sup> According to data retrieved from Ministry of Finance: <http://www.minfin.bg/bg/page/19>.

<sup>147</sup> According to data retrieved from NSI: [http://www.nsi.bg/sites/default/files/files/data/timeseries/GDP\\_1.1.4.xls](http://www.nsi.bg/sites/default/files/files/data/timeseries/GDP_1.1.4.xls).



**Table 11.8:** GDP and GVA by Economic Sector and Region (2014)

Statistical region (NUTS II)	Oblast (NUTS III)	Gross Value Added by economic sector			GVA, Million BGN	GDP, Million BGN	GDP per capita, BGN
		Agriculture	Industry	Services			
BULGARIA		3 823	19 726	49 059	72 608	83 612	11 574
Severozapaden		649	1 716	2 787	5 151	5 932	7 381
	Vidin	89	77	329	495	570	6 034
	Vratsa	152	715	590	1 457	1 678	9 494
	Lovech	97	317	478	892	1 027	7 635
	Montana	140	206	460	806	929	6 611
	Pleven	171	400	929	1 501	1 728	6 710
Severententralen		626	2 038	3 378	6 042	6 958	8 376
	V. Tarnovo	141	468	1 081	1 690	1 946	7 801
	Gabrovo	46	493	460	999	1 150	9 804
	Razgrad	142	300	406	848	977	8 152
	Ruse	147	672	1 102	1 922	2 213	9 675
	Silistra	150	105	329	584	672	5 826
Severoiztochen		627	2 329	5 128	8 083	9 308	9 775
	Varna	147	1 408	3 423	4 978	5 733	12 096
	Dobrich	211	339	694	1 245	1 434	7 802
	Targoviste	116	222	386	723	833	7 113
	Shumen	153	360	624	1 137	1 309	7 376
Yugoiztochen		556	3 825	4 667	9 048	10 419	9 819
	Burgas	188	558	2 380	3 126	3 599	8 687
	Sliven	108	306	583	996	1 147	5 936
	St. Zagora	146	2 642	1 287	4 075	4 692	14 348
	Yambol	114	319	418	851	980	7 751
Yugozapaden		555	6 448	27 369	34 373	39 582	18 614
	Blagoevgrad	250	678	1 154	2 082	2 397	7 567
	Kyustendil	59	264	423	746	859	6 656
	Pernik	47	200	410	657	756	5 914
	Sofia	137	1 351	912	2 401	2 765	11 544
	Sofia cap.	62	3 954	24 470	28 487	32 804	24 982
Yuzhententralen		810	3 371	5 730	9 911	11 413	7 872
	Kardzhali	140	219	434	794	914	6 041
	Pazardzhik	162	637	793	1 592	1 833	6 842
	Plovdiv	259	1 913	3 276	5 448	6 273	9 268
	Smolyan	93	282	380	755	869	7 554
	Haskovo	156	319	847	1 323	1 523	6 386

- **Regional level**

Decentralization model in Bulgaria gives important functions to the regional level, i.e. a deconcentrated state power. It does not formulate its own policies while it should coordinate local policies (formulated at the municipality level) in region framework. The coordination depends more on abili-

ties, skills, and leadership than on legally bound commitments. The legislative changes are easier than the development of abilities and shaping of leadership. For this reason, there are many problems that question nowadays the capacity of regional level for the policy coordination implementation (Живле, К. Джилджов, А. Нодингс, П. 2009). The existing regional administration capacity is not perceived as a specific issue that should be resolved for the sake of the current decentralization model improvement in the current PAR reform. Insofar the fact that some steps have been undertaken is related to the European regional and cohesion policy implementation. These steps change slightly the practices; however, they have not the opportunity to significantly influence the territorial governance.

The regional level deficits related to the policy coordination are not deficits of structure. They derive from a limited capacity of the public administration as a whole to implement and follow the good governance logic when it acts (Т. Танев, 2011). This logic presumes that different governance levels are involved in a common, horizontal process of policy aims formulation. Thinking through the formal hierarchy turns back the process to the Weberian bureaucracy. For this logic, the existence of a great number of empowered, independent actors is counter-evident. In the practices this thinking widens the role of the center despite the formally build decentralization.

In the public debate, the opportunity for a self-governance principle introduction at the regional level is discussed. The newly developed Decentralization Strategy for 2016–2025 and its Implementation Plan embrace this opportunity. The intended decentralization, and especially its regional level is not clear yet. What will happen depends on the state's will to lose, or at least, to share the control over the policy formulation and public finances. For the moment, this seems to prevail.

### **11.3. Conclusion: Setting of Administrative Practices instead of Governance Model**

Since 1989, the PAR in Bulgaria advances as three interrelated processes. They differ in the concept they introduce in the practices; their start up time, and the actors through whom the relevant practices are transferred.

The first process introduces the traditional model of administration

concept and the practices that have shaped the statute and the capacity of professional and politically independent administration. This part of the reform is relevant, to a great extent, for the agenda of transition from totalitarianism to democracy because it contains the opportunity to substitute the old administration and break with the past. The orientation to the classical model of public administration is additionally supported by the European process for the sake of the relevant practices spread in a few influential member states.

The second process of the PAR in Bulgaria introduces the NPM concept in the governance model. It leads to the devolution of public services delivery to the private sector; orientation of public administration activities to the results and to the client; creation and development of public authorities' regulatory capacity, and decrease in the administrative burden on the businesses. Specific aspect of this process is the decrease in the administration size and its optimization in relation to the functions. The international financial institutions are the main actors for spreading of this concept. The EU cannot be perceived as the main actor while it supports the NPM ideas for the sake of prevailing liberal paradigm of the common market building.

The third process has started last and it is grounded on the European integration and requisiteness to respond to the European conditionality. It has enlarged the reform by bringing the concept of good governance and the practices, which have opened the administration to the society and involved the society in its activities.

The PAR is often explained as a shift from the first concept to the second, and next to the third concept. As a matter of fact, the reform agenda looks in this way. However, as the reform content mixes the three concepts and creates administrative structure relevant to the classical model, it has introduced practices and regulations over the policy implementation in relevance to the NPM and over the policy formulation – in relevance to good governance. “Does this reform lead to a new governance model shaping?”, is the research question that rises. For the moment, the PAR result is nothing than a setting of administrative practices. It is only the future of the PAR that can respond whether one of these concepts will prevail or whether a new governance model will emerge from the incremental process of the administrative practices introduction.

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## 12. Conclusion: Main Themes of Public Administration Reforms in the Eastern EU Member States

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### 12.1. Convergence, Divergence, and Administrative Spaces

In this book we present overviews of public administration reforms of 9 of 11 post-communist EU Member States: Latvia, Lithuania, Poland, Slovakia, Hungary, Slovenia, Croatia, Romania, and Bulgaria written by the public administration researchers from respective countries. One characteristic of the region with regard to comparative public administration is that a large body of research is published in national languages, and there are a few outlets for its dissemination internationally. From the broader perspective of public administration research, the term coined in the wake of the collapse of communism in Europe which refers to the region as Central and Eastern Europe (or CEE) is still very persistent, although the intervening quarter of a century has resulted in countries taking wildly different developmental paths. And while that is self-evident when looking at, say, Slovenia as opposed to Tajikistan, the differences between the 11 countries on which we focus in this book are often much harder to identify at first glance.

So, what are the themes that allow defining this region as precisely that – a region? To begin with we found that there is a considerable variation between the paths the countries are taking in terms of the development of reforms. And this, we believe, means that the topic of administrative convergence in the EU is of key relevance and will remain such into the future. A common administrative space may become the institutional “glue” that keeps the EU together in times of political disagreement but we are very far from having national administrations, the sum of which could be defined as “space”.

The specificity of the region of 11 new (Eastern) EU member states is usually explained by two features of its history: post-communist<sup>148</sup> transfor-

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148 This is often called post-socialist transformation in countries which were affected by the Soviet Union to a lesser extent.

mation and European integration. Both of which occurred simultaneously. And both of which describe a decades old phenomena. There is evidence that these concepts can no longer sufficiently explain developments in public administrations of these countries. But that is not to say that the idea of “the West and the rest” does not still hold true between Western and Eastern EU member states. Although the EU is the most prominent institutional project of the West, there is still a long way before differences between Western and Eastern member states will no longer be pronounced. And this needs to be kept in mind when making comparative analyses. Eastern and Western member states of the EU differ in several critical respects: Eastern member states have lower citizens’ trust in governments and their accountability, there remains a stark difference in economic prosperity, and most of the region’s administrations have significantly more politicized civil services, which affects their capacity.

In the wake of ‘*Brexit*’ referendum greater institutional integration is becoming an important topic in the EU. But closer integration, which implies convergence in governance practices, is a deeply contentious issue. Indeed, there is much to be said about divergence. E.g. the Eurozone crisis has disproportionately affected the southern EU member states to a point, in fact, at which their economic prosperity has nearly equaled that of the eastern member states. Therefore, going forward with the discussions on future prospects of greater EU integration a better understanding of actual trajectories of convergence or divergence, and key factors driving them is important. As Pollitt (2001) points out convergence in terms of public administration reform can be misleading. At least four consecutive levels of convergence can be identified: (i) convergence of reform debates, (ii) decisions, (iii) practices, and (iv) results. Concepts of convergence and divergence in public administration originated when theorizing the move from traditional bureaucracy to New Public Management in the Western countries (Pollitt, 2001; cf. Pollitt, van Thiel & Homburg, 2007). The problem with Eastern EU member states with regard to the convergence/divergence debate is that a move towards post-bureaucratic governance coincided with post-communist/socialist transformation. This means that although the transformation took different paths it does not automatically mean that divergence of administration is taking place.

The convergence/divergence debate in this sense can be enhanced by con-



sidering the public administration traditions approach (e.g. Pierre & Painter, 2010). Regions with largely uninterrupted centuries old political institutions significantly limit possibilities to implement formal theories of governance. E.g. the NPM with its origins in the Anglo-Saxon tradition proved to be a tough sell in countries like France or Germany. But the eastern EU member states were considered a *tabula rasa* in the early 1990s – starting reforms from similar positions, and as Pollitt (2007) puts it, countries in the region were ‘imposed’ with or ‘strongly urged’ for NPM reforms. But we believe the *tabula rasa* argument not to be accurate. Important differences among the countries did exist already at the outset. The Baltic States, Slovakia, Slovenia, and Croatia needed to develop tools of sovereign government, and Slovenia and Croatia had to fight wars of independence. Also pre-communist traditions of governance became the benchmark against which new developments were measured domestically. As a result, the rhetoric of adopting ‘*European standards*’<sup>149</sup> that pervaded the discourse of public administration reforms (PAR) before the EU accession had different meanings in different countries. Being aware of this complex interaction of a search for administrative tradition, and the impetus for convergence make this region of particular interest for public administration research.

Despite the shortcoming of reforms, the region’s countries are poster-children for benefits of Europeanization. In 2004, two countries, Czech Republic and Slovenia had a Human Development Index value of 0.800 (very high). In the intervening decade 7 more regional countries have joined this list, and this is despite a particularly hard impact of the 2008–2009 that hit most of the regions.

In this contribution we will leave out the discussion what was the role, positive or negative, of NPM of region’s success (Randma-Liiv, 2008; Drechsler and Randma-Liiv, 2014). Ours is a more empirically focused question: Do public administration reforms in the region follow a pattern that would amount to an administrative tradition as outlined by Peters and Painter (2010)?

In recent years Hungary and Poland conducted reforms that, as Drechsler and Randma-Liiv (2014) put it, are driven by endogenous factors. These reforms are severely challenging the assumption that this region can be defined by a sin-

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149 We use the term synonymously to Europeanization (more in Nemeč & al., 2015; cf. Trondal & Peters, 2013).

gle reform trend. Finding concepts that explain common and differing governance developments could shed light more broadly on public administration theory with regard to the Western public administration and be a good test for the validity of New Public Governance (NPG), and other formal public administration theories, most of which make universal claims and pay little attention to particular social and institutional contexts of nation-states. The NPG, similarly as the NPM, are formal theories, which cannot be adopted in practice *in corpore*; while Weber's ideal-type bureaucracy is a result of generalization and seems to retain important explanatory power for the behavior of public administrations, and even enjoys a comeback as Neo-weberianism (Dunn & Miller, 2007; Kovač & Gajduschek, 2015). We kept in mind these four formal governance theories, and we tried to utilize them as heuristic and analytic guidelines to try to frame generalizable observations.

## 12.2. Call them EEU-11

Before addressing the subject matter of this contribution, we believe a discussion on identification (i.e. naming) of the region in question is necessary. Membership of the EU in many respects was a *rite of passage* of statehood for many of the post-communist/socialist countries. The 11 post-communist/socialist countries joined the EU in 3 consecutively smaller enlargements: 8 in 2004 (Estonia, Latvia, Lithuania, Poland, Czech Republic, Slovakia, Hungary, Slovenia), further 2 in 2007 (Romania, Bulgaria), and finally, 1 in 2013 (Croatia). Moreover, it is becoming obvious that the EU's Eastern expansion is likely to experience a long break<sup>150</sup>. The fact that in 2016 in our region of interest three countries were in the Schengen zone and six (all of them largest by population) are not in the Eurozone shows a slowing integration processes. With the 'Brexit' vote and consecutive economic, and migration crises the 'enlargement fatigue' is finding forms of political expression in many of the most economically powerful member states, and this is not likely to change. Thus, the eastern borders of the EU have split the once-communist Europe at least into two areas, which tackle profoundly different administrative issues. Hence, the region of 11 countries, we believe, needs a set term of reference.

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150 Four Western Balkan states of Albania, Macedonia, Montenegro, and Serbia were recognized candidates in 2016, but only two, Montenegro and Serbia, were conducting negotiations; these were in the opening stages, and their pace was slower than for the countries that acceded earlier.

It is still the case that differences among Eastern EU member states are smaller as compared to other EU regions. Nonetheless, they have become more pronounced over time. As years go by, attributing generalized reform trends to the region as a whole deserves due contention. At the outset of writing this book we had hoped to arrive at a something resembling a model of Eastern EU governance. And on these terms we do see several persistent factors which ensure similar governance outcomes in most of the regional countries. However, this is caused not so much by the processes of convergence but rather institutional limitations for reforms that do not allow divergence to occur at greater scale or pace. However, more time is needed before we can tell for sure if this extended period of lingering close together will result in a public administration tradition in the full sense of this term.

Much of the body of literature on post-communist transformation and later on Europeanization agrees that the policies towards the post-communist EU candidate countries were similar and had a strong homogenizing effect (Jacoby, 2006). With regard to Europeanization, this literature was primarily concerned with how the EU accession conditionality affected public administration and other reforms in candidate countries. Some studies on the topic have suggested that Europeanization has been in this respect understood mainly as the impact of common values and trends as well as formalised principles, norms, and case law within or as an impact of the EU on drafting and implementation of regulations in individual countries as pursued particularly by the SIGMA. Yet, Europeanization is much more difficult to demonstrate as a factor of reforms after the accession (Sedelmeier, 2011). Such admissions allow revisiting both studies of post-communist transformation, and reach further back in history to seek out reform factors that shape different states and societies. Broadly, we claim, that Huntington's thesis (1997), that in a 'post-ideological' world of free market democracy versus communism the nation states will turn to their long standing cultural (or civilizational) identities to build political legitimacy. With 9 of the 11 countries included in the Huntingtonian map of the West, and with Bulgaria and Romania having powerful European nation-state narratives that overshadow their eastern Christians historical affiliations, Huntington's thesis might serve as an explanation for these countries' compliance to the EU requirements without having to cope with challenges of state building *per se* as it happened in much of the rest of the region.

After all, although dramatic, communism in historical terms was only a short period, and in the the early 1990s, there was still a living memory of the previous period. Because of its totalitarian, centrally planned, and brutally enforced policies it brought certain uniformity to the eastern part of Europe. The concept of Central and Eastern Europe (or CEE) was coined after the collapse of communism, and is still often used to refer to post-communist or post-socialist countries. However, this concept includes countries as different as the Czech Republic and Tajikistan (cf. Vintar & al., 2013; analyzing PARs under the scope of the NISPAcee region). As years and decades go by, differences between sub-regions of CEE become ever more accentuated. In sum, four distinct regions can be identified from the European perspective within CEE. 11 EU member states (of which 5 are members of the Eurozone), West-Balkan states in the current EU enlargement agenda with likely membership at an indeterminate point in the future, six post-Soviet states within the Eastern Partnership (EaP), and the remaining six of Russia and Central Asia which, in effect, are beyond the European governance debates altogether. At the outset of the discussion, we propose referring to the 11 countries of the region as Eastern Members of the EU, new Members of the EU, Central and Eastern European EU Members, and to avoid any confusion, the concept of EEU-11 (Eastern European Union). Because the term used for new member states as proposed by Drechsler and Radmaa-Liiv (2014) is not specific enough, e.g. Malta and Cyprus also qualify, as to some extent do Sweden, Finland, and Austria which already had to comply to the Copenhagen criteria for joining. Moreover, while Sedelmeiers' (2009), although specific but rather clumsy, post-communist new member states, and while the Central and Eastern European countries (CEEC; with a relevant number; as in Lippert & Umbach, 2005) raise questions about where to exactly draw the line between central and eastern Europe, the UN's classification of Baltic States as Norther Europe makes things even more complicated.

The notion of EEU-11 is hence suggested to simultaneously identify and differentiate the area. Firstly, we wish to emphasize key similarities and convergences characteristic for respective countries, resulting from common societal legacies (primarily post-communist one), up to date administrative structures (above all based on the EU membership), and economic processes (crisis and rationalizations). Secondly, we feel that there is an increasing need to

differ this region from other countries of Eastern and/or Southern Europe that express other or additional issues, which are not relevant for our scope. Namely, such a concept of EEU-11 can serve as a theoretical if not practical ground for further PAR developments, both at the European (in terms of pursuing joint interests of these 11 member states within the EU) and national levels.

### 12.3. EU, EEU-11, or Case-by-case?

Is there any sense for intra-regional comparisons of national public administrations within the EU? Do, by limiting ourselves geographically, we also risk overlooking important things? Both are the questions we cannot fully answer here but we do believe that several reasons deserve to be mentioned in defense of EEU-11 as a meaningful region for comparison. What we discovered in the process of reviewing the national contribution was that generalizations become more difficult, not easier, when we were trying to describe more particular topics, such as the civil service. This increase of complexity as we look closer into the cases is, of course, to be expected. Similarly as, e.g. a generalization of modernity maybe useful when discussing profound technological change, such as the Internet, but is next to useless in a discussion on whether next years' national budget of a small country will go up or down by 2%. Nevertheless, what we found was that a difficulty to generalize lies in the fact that comprehensive reforms which have a clearly spelt-out ideology (or a paradigm if you will) is present only in the case of Hungary's strong state narrative (Fodor, 2012). Furthermore, formal theories such as neo-Weberianism or New Public Governance are not part of public debates on public administration reform. Instead, narrow and most often contingency driven changes are the main type of reforms in EEU-11. Although changes are happening continuously – for the most part they are incremental and do not amount to a formation of a specific public administration model. Finding ourselves in a situation where by trying to look closely at each case we encounter a torrent of events which are of limited consequence, while trying to find a meta-trend we do not seem to find a single structuring factor of public administration reforms that would apply to the entire EEU-11 we opted for a middle road, of describing the several most prominent themes in public administration that are of concern, and that are likely to remain of concern throughout the EEU-11. And as e.g. Jreisat (2005) points out, comparative

research in public administration may arrive closer to describing emergent features of governance into a coherent theory by aggregating data from different governance systems.

In addition, our work is not conducted on barren soil. There are several recent publications focusing specifically on the region and raising similar questions (Kovač & Gajduschek, 2015; Vintar & al., 2013). These publications go some way in pointing out the PAR trends in the EU. But what we set out to do in this conclusion is to stress that in all EEU-11 there are raging debates on how to achieve convergence to the EU ‘average’, and beyond on any metric. Moreover, what we find these debates result in themes that do overlap throughout the region. EEU-11 is differently experiencing fluctuations of global economy, and it is mostly on the sidelines of third country immigration. These new social and economic disparities are bound to impact public governance.

Before we begin outlining the themes we deem most prominent we ask you to keep in mind the research question we asked the contributors to answer: *“What are the concepts and their content of PAR or administrative and/or governance changes that frame research debates in your country?”* This question was elaborated to encourage contributors to cover: (i) national governance setups and governance mode(s); (ii) organization of public administration, including decentralization and agencification, and main resources, e.g. public funding; (iii) development of civil service; (iv) administrative procedures and transparency issues. This was also complimented with and followed up by additional questions to the contributors to elaborate on: (i) “Can a ‘native-to-the-region’ EEU-11 theory of PAR (administrative/governance change) be constructed to replace the Post-Communist/Socialist transition narrative?”; (ii) “Does the post-communist transition narrative still play a role in understanding PAR in the regional countries?”; (iii) “How is the concept of Europeanization constructed with regard to PAR (administrative/governance change)?”; (iv) “What are the key arguments for explaining ‘implementation gaps’ in the PAR process in the country/region? Are there differences in policy areas?”

A decision to collect data this way resulted in highly varied inputs which presented us with a challenge of trying to generalize the regions experience. However, public administration research in EEU-11 mostly goes by imported theories and terminologies. In addition, to gain relevance in our domestic public administration reform discourses as well as provide international pers-

pectives, we need our national academic communities to begin constructing narratives both closely related to local realities, and at the same time, having a high level of sophistication. In this regard, this book still leaves a lot to be done. Nevertheless, we find that there is meaning in learning from each other's experience, rather than implementing further ideas that originated from the West in very different settings. At the same time, we believe this book will contribute its small part to the debates on European Administrative Space (EAS). Protection of the four freedoms is something we believe in strongly. Moreover, in Europe where policy is becoming more erratic, a strong institutional backbone of public administration may very well come in handy. In the long run, greater convergence not only in areas which the EU directly affects but in key aspects of administration, such as administrative culture, ethics, procedures, and civil service are key institutional prerequisites which will become a focus of contention between political forces of integration and otherwise. Here, the story of EEU-11 is a cautionary one. Convergence is a particularly tall order, and will not be achieved by itself.

We believe five public administration reform themes in EEU-11 are clearly discernable, and are the following: (i) near unchangeable 'paradigm' setting role of institutional setups of the early 1990s, (ii) tension between pressures to reform between international and local considerations, (iii) lack of a 'strategic visions' for the outcomes of reforms, (iv) persistence of legalism, and (v) tension between centralizations and decentralization.

#### **12.4. Initial Institutional Steps**

With regard to the observation that initial institutional setups are nearly immovable, one particular feature of EEU-11 is apparent: existing political institutions at the national level have, in most of EEU-11, hardly changed since the early 1990s. The path-dependence on initial conditions of any institutional setup is the cornerstone of the historic institutionalist theory (Hall & Taylor, 1996). Europeanization is, in this respect, primarily reflected in horizontal governance (Nemec & al., 2015). Moreover, there is no denying that post-communist transformation was the period of setting governance models that have not experienced a major reshuffle. In EEU-11, post-communist reforms were already initially well on the path of Europeanization, and favorably set for the later enlargements. Although the basic institutional setups have

not changed substantially in EEU-11, there is a notable exception of Hungary. This might also be the case for Poland in the wake of 2015 elections.

An important feature of the context of public administration reforms in the EEU-11 is that these countries are parliamentary democracies with only Romania considered semi-presidential. Nevertheless, even in its case the presidential power with regard to public administration is severely limited. Nonetheless, eight states with the exception of Estonia, Latvia, and Hungary do have direct presidential elections. Having two national institutions which hold popular mandates means that most EEU-11 have created a large number of veto players at the very top national executives means that difficulties of both initiating and following through with reforms occur more often than not. In EEU-11, achieving consensus for reforms among the elites is that much harder (Talat-Kelpša, 2004). This enhanced system of checks and balances is a natural result of totalitarian experience in the region, and is a means of guarding against risks of authoritarianism. Hungary is particularly interesting in this regard as it allows us to draw an important lesson: there, differently from Estonia and Latvia, a highly ethnically homogenous society with the absence of a popular presidential election could create the conditions for radical reform. And it is the only case of reforms that not only focus on narrow public management areas but reshuffle the entire institutional system based on a locally developed '*strong state*' concept. In Poland, conditions for a debate about comprehensive national governance reforms became only possible when the president and the prime minister were closely politically aligned and coordinated by a charismatic leader who did not hold an official position. In this regard, the Polish arrangement for a reform agenda is much more fragile.

Another important observation with regard to the political context of PAR is that the post-communist transformation was largely peaceful (or, especially the war in Croatia, have not been a direct impact of this origin but national or other tensions). The lustration process, if it occurred at all, did not bar the participation of former communists in the political process, or public administration (Welsh, 1996). This meant that, in most cases, the staff of government agencies was not replaced, and many of the practices of communist administrations persisted well into the 1990s. All these factors play into the fact that most of the public administration reforms since the EU accession were moderate and narrow in their focus. In addition, the nature of post-



communist transformation means that reform is more often called for by the political parties that identify themselves as right-wing, whereas the left-wing governments tend to favor incremental change, if not *status quo*.

With the exception of Hungary, and possibly Poland, EEU-11 seems to have settled on an institutional setup which is unfavorable for comprehensive reforms because for those to go ahead a great number of political and social factors need to coincide. This is in stark contrast to the institutional arrangements of the Anglo-Saxon tradition where strong executives can implement reforms of public management with little resistance. However, this is not to say that under the conditions of recent authoritarian and totalitarian experiences, low trust and lower rankings in corruption perception an Anglo-Saxon institutional reform in the EEU-11 would be a good idea. History of non-EEU-11 post-communist regimes, which are often presidential, bears witness. As Pollitt (2013) points out, the ease with which reforms can be started and a lack of accountability for the results of such reforms raises questions about the merits of the institutional system.

### **12.5. Non-Alignment of Domestic and International Drivers for Reforms**

Due to the relationship between external (international) and internal (domestic) factors of PAR, the opinions of contributing authors have diverged significantly. Here, the countries with long and uninterrupted periods of statehood (Poland, Hungary) seem to have been least affected by the external pressures. Nonetheless, two institutions enjoyed significant influence over reforms in EEU-11 in the decade preceding the EU accession: the IMF and the EU. These organizations have managed to drive a lot of governance change in the entire region. Primarily, this was because the elites and population were aligned in the support of EU integration – a situation that occurs in exceedingly few areas of reform. In addition, in the 1990s, all countries, with the exception of Slovenia, had entered some sort of IMF program (Roaf & al., 2014). At the time, the IMF did espouse the principles of NPM and encouraged its program among the participant countries to adopt relevant reforms. But these reforms often focused on narrow sectors of fiscal governance and economic policy, similarly as the Europeanization process produced ‘islands’ of ‘Europeanized’ administrative practices (Goetz, 2001). And it appears that

it still remains to be the case that in narrowly defined (i.e. receive little public or political attention) policy areas, where the EU-level regulation is of high importance, reforms continue to be implemented and new practices taken up through various peer-to-peer networks. However, due to their *ad hoc* nature and lack of research, it is difficult to say whether this is a case across the entire EEU-11 and across all policy areas. On the other hand, we can claim that due to the narrow focus of such reforms, the proliferation of modern methods of public governance seep through the entire public sector, and does not spur broader public and political debate over PAR. Rather, the caricatures of public administration as a corrupt and inefficient are drawn in the public discourse; and fatalistically imply a need to deregulate and reduce the scope of PA, rather than reform it.

A typology explicitly presented by the contributor with the Romanian country profile (see Table 1) of PAR appears to apply to the entire EEU-11. The two criteria for the four main types of reform are: (i) conditionality (i.e. imposed, or presented by the reformers as imposed by international obligations) versus/or ideology-driven (espoused by the reformers), and (ii) sectorial versus structural (affecting all, or most of government agencies).

**Table 12.1:** PAR Types in EEU-11

	<b>Conditional</b>	<b>Ideology-driven</b>
<b>Sectorial</b>	Most common (adoption of new EU regulation)	Fairly common, initiated by the ministers with narrow focuses
<b>Structural</b>	Very rare, mostly a historic legacy of the EU integration, and IMF funding programs	Very rare (e.g. Hungary's constitutional reform)

Source: see Romanian profile by Calin Hintea et al.

Countries in EEU-11 are almost entirely all similar in terms of initiating and conducting structural reforms because their institutional setups allow few possibilities to conduct such reforms. However, the region is highly divergent in terms of ideological sectorial reforms. Whereas with the EU-driven (conditional sectorial) reforms, similarities are very clear, and only the adoption speed and the breadth of impact on change of administrative

practices differs. Smaller countries, such as Slovenia, Latvia and Lithuania, diligently implement conditional sectorial reforms. In some sense, it is a form of outsourcing much of the administrative procedures to the EU institutions with the national institutions not devoting many resources on reviewing these. Contrary, others, such as Slovakia and Hungary, tend to adopt the '*box ticking*' logic, formally adopting needed reforms without following up with substantive change in public management.

Roughly, the same geographic divide can be identified when speaking of ministerial level ideology-driven reforms. These are more common in countries where ministerial autonomy is large and reforms (or their rhetoric) are often used as a means of postponing accountability of tenure in office. In countries, such as Slovakia, reform is an organic part of the political rhetoric, often without a substantial strategic concept of what the reform is trying to achieve. The EEU-11 states have also undergone a process of intensive agencification with many agencies tasked with coordinating standards of administrative practices, such as central civil service agencies, or governance agencies. However, the monitoring tools that would enable such agencies to effectively compare other institutions performance are, in most part, not in place, and therefore, their capacity to mobilize public and political support for PAR is difficult. Nevertheless, the variety and number of these reforms is staggering, and an inventory would need to be made in order to definitively claim that these are more often used as a means of political communication, rather than attempts to genuinely modernize processes. Albeit there is some evidence that in cases when technocrats are appointed as ministers, substantial sectorial reforms do occur. In sum, although generally speaking but obvious, is also that EEU-11 are still often dealing with rather basic PA restructuring issues instead of upgrading good administration principles as identified in the West. This is indicated, among others, by many reported implementation gaps, and consequently, mainly formal PA modernization and internationalization. The exchanges of best practices are fragmented and underdeveloped, especially beyond small Baltic or Western Balkans countries. This is evident at almost all levels: nationally among sector specific policies, regionally, in the EU and broader.

On the other hand, we can claim that a divergence between countries of the region may be drawn along two lines of this typology: the presence

of structural reforms (Hungary, possibly Poland) versus no such presence; and within the latter group of countries – differences between quick versus sluggish uptake of new EU regulation. We believe this line, with the exception of Slovakia (and having in mind lacking information from Estonia and Czech Republic), may be drawn between the Eurozone participants and non-Eurozone participants.

### 12.6. What Are the Visions for Reform?

Lack of ‘strategic visions’ is directly linked to the lack of strategic (structural) reforms in EEU-11. The legacy of the communist period plagues the public sector in a sense that there are very low trust levels in the society (both political and social). Therefore, populations are persuaded to undergo reforms by charismatic leadership, rather than rational public debates. Throughout the region, the two strategic policy goals of EEU-11, which evoked comprehensive reforms, were the memberships of EU and NATO. However, once these goals were achieved the institutional arrangements do not allow building national (or to that matter regional) consensus on future visions of public governance which societies would espouse. In addition, when reforms do happen after all, as they did in Hungary, they are focused on strengthening the national level institutions at the expense of other levels of governance, which goes against the grain of much of the thinking in public administration theory over the past decades. The EEU-11-level reform initiatives were predicted by some, claiming that this region might become an international policy actor of the likes of Germany, France, or the Great Britain under the leadership of Poland (Friedman, 2010); however, this is yet to materialize. The international regionalism, which could give rise to meaningful debates on common administrative standards, does not seem to have much influence across the EEU-11. Thus, the EEU-11 countries are engaged in a ‘*catch-up*’ competition measuring their practices not amongst themselves but against the likes of Germany. However, imitation is a very limited form of innovation, and for EEU-11, the ‘*catch-up*’ with the countries that are different in size, history, and structure of economies resigns EEU-11 to a peripheral status in the EU. This, of course, is not necessarily a bad thing, as adopting only reforms that were tested elsewhere allows avoiding mistakes, but equally the elites in the EEU-11 cannot in all honesty promise their societies that

convergence in economic output and incomes with the leading innovative economies of the EU is possible in the near future.

Two other closely related elements of PAR in EEU-11 are the persistence of legalism, and the continuous debates on pros and cons of centralization or decentralization. Persistence of legalism tells a story of heritage of Weberian bureaucracy of the *interbellum* period and even before. Administrations of the Visegrad group and Slovenia, and to some extent Croatia, have a clear heritage of Austrian-German administrative tradition where formalization of procedures under the *Rechtsstaat* principle is seen as a crucial element of “good administration” (as a sub-concept of good governance, Venice, 2011). Moreover, the European Administrative Space also pursues especially convergent development of national systems based on common principles of administrative law and good administration (Trondal and Peters, 2013, who see phases of national Pas as follows: (i) independence, (ii) integration, and (iii) co-optation). Consequently, this field, striving for PA beyond formality and actual effectiveness, should be addressed in most of EEU-11 in future as well, in line with others, such as civil service system or regionalism. On the other hand, looking over past 25 years, even the likes of the Baltic States and Romania, did not avoid the fate of creating highly bureaucratized administrative systems. This is a paradoxical feature of PAR of EEU-11; post-communist transformation, and in cases of six out of the eleven countries, creation of sovereign states took place at a time of high noon of New Public Management. Therefore, creation of bureaucratic governance tools went in parallel with the NPM debates. It needs to be admitted that the communist bureaucracies were anything but Weberian; they were highly politicized, acted arbitrarily, and were corrupt. Therefore, in a sense the region had to leapfrog from pre-bureaucracy to a post-bureaucracy.

In EEU-11, the result in most cases of EU-driven PARs was the creation of highly bureaucratized public administrations, declaratory to create effective tools to enforce free market rules and incorporate the European *acquis* (Hille & Knill, 2006). The body of European regulation implied the creation of bureaucratized procedures while the EU and the IMF in parallel promoted the NPM as a solution to inefficiencies that occurred due to lingering practices of communist administration era. The result of this process was that the EEU-11 countries created bureaucratized procedures to regulate for NPM.

This is a fundamental paradox which limits the NPM's impact on governance, as bureaucratic procedures created in parallel to the NPM reforms became interwoven with the NPM. These procedures undermine the NPM-promoted practices; also regulating for NPM is simply incompatible with the notion of flexibility as any managerial innovation or exercise of administrative discretion raise questions of revisiting existing legislation. Moreover, there is very little appetite for such reviews among the political elites as reforms of this type are very risky, and have little political rewards.

Centralization versus decentralization theme was set off in the 1990s as a wave of decentralization which, after a totalitarian period, could only be such by definition. This process has created a great variety of multi-level local and regional governance modes; and the EEU-11 does not seem to have a clear pattern of decentralization. Moreover, in many instances decentralization has proven a fiscal hazard as national budget allocations are too small for the service delivery standards that are expected by the residents, and with many municipalities having problems raising sufficient funds themselves. The occurring regional disparities due to decentralization are causing a rethink in some countries about how to balance national cohesion with the expanded rights of local self-government. However, once set, the intra-state multi-level governance arrangements prove to be just as hard to reform as any other area of public administration. Of all the themes we identify, this is the most structured in the texts of the contributors. Its prominence in all of the contributions allows us to claim that the disequilibrium and the need to find workable governance solutions in terms of decentralization will be a litmus test of the capacities of EEU-11 to conduct reforms that result in increases of efficiency and ensures greater citizen satisfaction and empowerment.

To sum up, we can generally identify the main groups of EEU-11 countries and the main PAR focuses, which have been followed within them (Table 2). However, simplified but to reveal the main differences, we apply three-level intensity of focus, i.e., lacking or highly inconsistent (✕), present but partially or rather formally implemented (✓), and relatively consistently executed (✓✓). The analysis reveals that the EEU-11 has conducted mainly formal reforms regarding PA organization and (de)centralization and management of public finances.

**Table 12.2:** Focuses of PAR in (groups) of EEU-11 (nine countries included)

<i>Countries:</i> <i>Focuses:</i>	<b>Baltic (Latvia, Lithuania)</b>	<b>Visegrad (Poland, Hungary, Slovakia)</b>	<b>Western Balkans (Slovenia, Croatia)</b>	<b>Eastern Balkans (Romania, Bulgaria)</b>
Key PA legacies	Soviet- Scandinavian	Soviet	Austrian- Yugoslavian	French- Soviet
Type of PARs: top-down & radical	✗	✗✓	✗	✗
Europeanization	✓	✓	✓	✓
Managerial reforms	✓✓	✓	✓	✓✓
Organization of PA, de/centralization	✓✓	✓✓	✓	✓✓
Public funding, rationalization	✓✓	✓	✓	✓
Civil service system, ethics	✓	✓	✓	✓
Procedures, transparency	✗	✓	✓✓	✓
General/systemic governance model	✗	✗ (✓partially Hungary)	✗	✗

*Source: own research.*

Although there are evident differences among the above groups of EEU-11, we believe that joint characteristics, e.g. formal institutionalism and specific policies implementation but lack of systemic, i.e. holistic and consistent reforms, are (still) a common identification of the region as a whole. Not surprisingly, one can claim systemic governance model and good governance practices are – due to its lacking consistency and often only formal implementation – still in the nascent state in the region (Vintar & al., 2013; Kovač & Gajduschek, 2015). Especially, more ambitious good governance and good administration principles, such as the rule of law and protection of human rights, transparency and participation, good administration with e-government, modernization of administrative procedures, and efficient and effective management of human and other resources in PA and Total Quality Management are still ahead of us.

The five PAR themes we identified in the EEU-11 region spur us to believe that the reason why economic developmental outcomes in these countries are similar is the fact that their relationship with the rest of the EU is one of center to periphery, with the EEU-11 being firmly in the periphery. As time goes by, it is likely that divergence between countries will increase. Especially, if and when comprehensive reforms will occur because these are not likely to be focused on intragovernmental cooperation to create synergies through common governance arrangements. However, this divergence is likely to take many decades as the institutional setups in the region are generally unfavorable towards ambitious PAR initiatives, and are often confined to narrow policy sectors. At the sectorial level, this creates an incredible variety of public management practices, and before we can speak of an EEU-11 as an area having a particular tradition of public administration, we need to draw attention that even at the national level government agencies are seldom compared between themselves with regard to various modes of public management. The one hurdle, which is particularly strong at the administrative level in this case, is the high level of formalism in EEU-11 which, in essence, creates performance evaluation paradoxes (as in van Thiel & Leeuw, 2002). In EEU-11, the only reliable benchmark for organizational performance remains their compliance to regulation.

### **12.7. Where Is EEU-11 in the Broader PAR Debate?**

With respect to origins and ambitions for PARs, the region is firmly peripheral to the more economically prosperous countries to its West. Here, the discourse is one of ‘catching-up’; and some similarities between the region’s countries occur because all of them are trying to catch up with the same lot. As a result, one outstanding issue in which all the region’s countries should share an interest is that the lack of native-to-the-region reform initiatives resign it to mostly adopting imitation-type innovations. Moreover, this condemns the region to an unending process of ‘catching-up’. When comprehensive reforms do occur, as in the case of Hungary, they are not benchmarked against international practices, but rather are based on national exceptionalism, and this inevitably creates divergences in administrative practices. Nonetheless, the achievements of region’s governments cannot be overlooked. All things considered, we propose a term of EEU-11



to refer to this region, as its reforms do not amount to a tradition in the Peters' and Painter's sense (2010) but also cannot be grouped with other post-communist/socialist countries due to very large differences in policy outcomes. At the national levels, reform are concentrated at the ministerial levels mostly to not challenge or change the overarching institutional 'paradigms'. In addition, they can be likened to an administrative *à la carte*?

Nine of the EEU-11 countries fall into the cultural category of the West as defined by Huntington (1997), and mark its outer boundary. In EEU-11, the communism is broadly perceived not only as a type of governance but as something imposed by a foreign power. Therefore, accepting and adopting recommendations from the West was a natural instinct of catching-up on what has been missing over half a century. That narrative remains a powerful force to date, but on the other hand, it also impairs the ability of these countries to engage each other and learn from best practices of one another. Ultimately, the metrics that drive much of the political debate show that the regional countries still have a lot in common. Economic and social outcomes of EEU-11 show that best performers (e.g. Slovenia and Czech Republic) are roughly half way to the EU averages from the regional worst performers. On the other hand, the EEU-11 are closing the economic gap between the South European member states. This catch-up is as much a result of the prolonged South European slump in the wake of the global financial crisis of 2008–2009 as it is of post-communist member states advances. When contrasting the region with other post-communist or post-socialist countries (e.g. Western Balkans, EU's Eastern Partnership members), the picture suggests that economic growth is not guaranteed by the membership, rather the differences in economic performance were in place prior to the EU accession. After all, the EEU-11 had much less trouble in the way of challenges to their sovereignty, while many other post-communist countries continuing to do so.

The EEU-11's preoccupation with trying to close the gap to the EU average in terms of GDP has caused most of the regional countries to subordinate public administration to that goal by introducing short-term politically contingent reforms, and the political elites seized (if they ever) to see public administration as enablers of economic prosperity. As a result, the direct impact of formal public administration theories on actual PARs

should not be overstated.

The relationship of formal theories of public administration, such as the traditional bureaucracy, NPM, or New Governance with the reforms and practices they refer to are very complex. Hood's NPM's description (1991) is one of generalizations but the NPM does have a normative agenda, and the same applies to New Governance theory with some claim it to be a descriptive category, while others consider it a normative theory.

However, although the terminology of New Governance is not directly adopted, the democratization and citizen empowerment narrative is now on a par with that of NPM's efficiency. In addition, in many countries, funding is becoming available and experiments are being conducted with new modes of citizen engagement. Nevertheless, these do not amount to a consolidated reform agenda yet. Efficiency and participation are not necessarily complimentary; and the elites and societies in the EEU-11 remain naïve to this aspect of PAR. Another very important observation is also that similarities between the EEU-11 countries do not seem to be a result of a new administrative tradition, but rather all of these countries have built political institutions that limit their ability to introduce comprehensive administrative reforms, and an incremental process of new practice adoption is taking place which creates increasing differences among these countries. What we see is that the administrative isomorphism is not occurring within the EEU-11 below the nation-state level. Moreover, with the crisis of EU institutions popular legitimacy the process or creation of a European administrative space (Trondal & Peters, 2013) is resigned to a slow and poorly reflected process changing attitudes among public administration professionals due to their engagement with EU decision-making processes (Meyer-Sahling, Lowe & van Stolk, 2015). EU's membership and the Europeanization process that led up to it indeed requires a rethink when looking at the region. The current EU border probably too narrowly defines the part of post-communist/socialist Europe that share common developmental perspectives. While to the West, convergence is difficult, as there is no single model of PA to converge to. This 'catching-up' with abstract averages results in poorly reflected reforms. Ultimately, the reason why we think it matters to continue to talk about EEU-11, is that reform agendas of early 1990s to mid-2000s have created new political and economic elites that used the

window of opportunity to gain dominant socio-economic positions, but by no means they ensures long-term sustainability. The regions fortunes are inextricably linked with the fortunes of EU, and some take it home, that instead of contributing to EU's success energy and recourses need to be devoted to reducing that dependency.

To conclude, let us emphasize our belief that public administration and its reforms need to be addressed interdisciplinary to be successful in resolving cross-sectional and cross-border problems that face the EU as a whole. We feel that the EEU-11 needs to join up its capacities to learn from each other in this respect in order to develop democracies that deliver to their citizens.

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