



## **The role of public administration, government and self-government in the new political and economic conditions**

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### **Abstract**

Economic aspects cannot be the only guide (and, moreover, it has been proved on many occasions abroad that the exclusion of public tasks from the responsibilities of public authorities did not bring expected savings, however, it resulted in the erosion of the values and principles upon which the provision of public services was based). After all, our country has also witnessed hasty abolition of control authorities, for example, which will have to be reestablished (as e.g. in the area of consumer protection, also with a view to the EU criteria).

It should also be stated clearly that stress on the conception of public administration as service to the public does not mean, on the other hand, a denial of the power, authoritative component of public administration. This comprises tasks in the sphere of security and internal order, regulation and enforcement of the fulfilling of legal duties, the application of administrative supervision tools, the imposition and execution of sanctions within the limits of administrative authority etc.

The material content and extent of public tasks and public services depend on how the importance of social automatisms and the extent of state intervention is viewed at a specific period, how the balance between the freedom of an individual and his responsibility for himself on the one hand, and solidary care of the human community for an individual and responsibility for him on the other hand operate. This is a matter of protection and execution of interests and values recognized by the decisive majority of citizens.

The definition of the role of public administration, government and self-government in the new political and economic conditions has not attracted sufficient attention in the Czech Republic. This is connected with the overall ambiguity of the role of public and private sectors and of the responsibility of the State for creating conditions for their development. So far, reform documents only point out these problems at a general level. There is little understanding of the fact that this should be a principal conceptual change with practical consequences for the definition of functions and concrete tasks of public administration, the shape of its institutions, the means for its activities and its relations to citizens and to the public. The issue has its political, economic and other dimensions, and it is naturally determined by the Constitution and the legal order.

What has been made so far both at the theoretical and practical level is not sufficient for the transition from the system in which public administration was understood primarily as a tool of power of the Party and State, to targeted and consistent implementation of the contemporary concept of democratic public administration.

Modern democracies understand public administration primarily as service to citizens and to the public.

Such understanding of the basic role of public administration is the foundation from which its principles (such as transparency, publicity, accountability, public control of administration), forms and methods of activities, requirements for professional and impartial performance etc. are derived.

The focus of public administration lies in providing public services. In addition to traditional services (municipal, health care, school, transport services etc.), they also include some "classical" administration activities in advanced countries, such as issuing licences, permits, documents, certificates, providing information etc. A number of these activities are no longer viewed as an exclusive domain of the State. Our new experience shows that many operational tasks, professional decision-making, execution of supervision, testing etc. can be decentralized and transferred to self-government or to private entities.

**Keywords:** public admiration, supervision, self-government, economic etc

### **Introduction**

The basic characteristics of public administration comprises the knowledge of heterogeneous and often contradictory aims that it is obliged to defend. In the present period of principal social changes and new demands which must be secured despite limited financial and human resources, public policy is exposed much more to pressure to make responsible selection of priority aims and to redefine tasks and functions of public administration in accordance with the aims. A permanent professional and political dialogue is fundamental for the process of defining these tasks and functions, leading to new economic, legal and other

solutions.

Orientation to securing public interests as the starting point  
We assume that the functions and tasks of public administration can and must be derived from identified and recognized public interests since securing them is the reason of its very existence. The way in which general or public interests are accepted and satisfied is a cross-section of historical traditions, the concrete development stage of the respective society, the existing institutional framework of public administration as well as the enforced political emphasis.

The orientation of public administration towards securing

public interests can be understood as its direction towards the solution of concrete problems of individual citizens and population groups and towards securing the functioning of the society as a whole. In this respect, public administration is interconnected with public policy, the aim of which is to identify, express and recognize public interests and to choose adequate means of satisfying them. Of course, the process of identifying, recognizing and satisfying public interests is always influenced by politically and ideologically affected interpretation. In the Czech Republic, the public administration reform has been neglected after November 1989 also due to the fact that politicians cast doubt on the very existence, extent and importance of public interests and they got, as an understandable reaction to the totalitarian nature of the communist state, oriented towards creating maximum space for satisfying individual interests. Identified and recognized public interests can become a good basis for differentiating the functions of public administration. In this direction, significant changes took place after 1989 especially in connection with the economic reform, political democratization and with the protection of basic human rights and freedoms. Securing the accession of the Czech Republic to the European Union and conditions for its subsequent successful profiling as a member of the EU can also be viewed as one of the most significant recognized public interests of the present and future time.

### Methodology

In a survey conducted by the IVVM in March 2019, 48% of interviewees stated that they had met with an unjust decision of the authorities. Negative experience is expressed primarily by people of productive age, with higher education, and by entrepreneurs. The majority does not have much hope in success in dealing with the authorities and enforcing their justified demands and rights.

An important task of public administration is the support of enterprise, especially of small and medium-sized enterprises. A report of the Chamber of Commerce prepared for the Analysis identifies difficulties which hamper this kind of enterprise in the legislative, taxation and financial fields. The entrepreneurs expect concrete support from the State and from public administration in the sphere of training (e.g. in apprentice/vocational training), in research and science. They demand an amendment to the Trades Act, speeding up the process of recording in commercial registers, coordination of inspection authorities and the exclusion of duplication of control. A substantial improvement is proposed in the fields of investments support and information. According to the survey, small and medium-sized enterprises find the biggest obstacles in the lengthy registrations in the courts that keep business registers, and in the second place the obtaining of a trade licence. The average time needed for the complete setting-up of a firm is almost four months and sometimes it takes up to two years. Stress is laid on lack of transparency and on frequent changes of regulations, crime and corruption.

The present studies has been carried out for the Functions of public administration Public administration and the whole public sector are going through a radical change of their position in relation to economy while the elimination of ineffective and bureaucratically burdensome methods of direct interventions in the economic sphere from the totalitarian era does not mean any liquidation of the economic regulatory function of the State and the related

tasks of public administration.

The principal changes result from the changing internal and external conditions of the development and functioning of economy, primarily from the needs to complete the market transformation of economy and from the international process of globalization of economic relations. The consequence of this is the need to increase the potential and effectiveness of the State and public administration in respect of the implementation of the following tasks (as conclusions of international institutions also stress

Promotion of a rational development of economic proportions through macro-regulation,

Control of the privatization process of state-owned enterprises and public services, securing free competition and transparency in its implementation,

Securing an effective exercise of ownership rights of the State and other public entities,

Support of the private sector, especially of small and medium-sized enterprises, the development of effective cooperative relations between the public and private sectors, Drafting and implementing effective sectoral policies, especially securing internal and external security, regional policy, transport policy, information and communication policy, environmental policy, education policy, social policy, employment policy and health care policy.

A well-functioning public administration and public sector provide conditions for the prosperity of private enterprise by creating an optimum and rational infrastructure by means of modernizing communication networks, systems of information services for citizens and businesses, through providing professional assistance to territorial self-government authorities, through support to investments in public interest etc.

It requires an increased quality and capacity of public administration in the sphere of regulation and control of the compliance with conditions and rules of the market environment, particularly the conditions of free competition and the elimination of monopolies, securing the quality, technological level, products free from health damaging defects and consumer protection. An important role of public administration lies in restricting "grey" economy, in securing proper tax collection, in discerning and preventing economic crime. In connection with the discharge of these and other tasks, public administration is in charge of public funds management (collected from tax-payers in the form of taxes, charges and other public dues under the law and simultaneously used in their general interest), and the state-owned movable and immovable property which, after all, should also serve all citizens. The financial area is remembered in the Constitution at least in the provisions on the state budget, the final state account and on an audit carried out by the Supreme Audit Office; the regulation of the "details" - which can be, however, of far-reaching importance - is implied in ordinary laws. On the other hand, the management of state-owned property is not regulated although the power of control is delegated to the Supreme Audit Office. The general legislation on the management of national property from the period before 1990, which is a residue of the previous regime, is still in force, leaving the management of state-owned property practically in the hands of the Executive. Neither any law has been adopted in accordance with Article 11 of the Charter to stipulate which property necessary for securing the needs of the whole society, for the development of the national economy and

for public interest may be owned by the State, a municipality or certain legal entities, nor any legal regulation of the management of state property has been passed which would, among other things, regulate the relationships between the legislative and the executive power in this respect so that every significant case of the disposal of state-owned property could be in accordance with the law.

Thus, a modern, rationally and effectively functioning public administration is a substantial and irreplaceable prerequisite for the economic growth.

Another significant function of public administration is to secure and strengthen democratic institutions and mechanisms.

Two main directions of the development of political democracy can be mentioned here: a) towards the strengthening of institutions and mechanisms of representative democracy, and also b) towards the development of institutions and mechanisms of participative democracy, i.e. direct participation of citizens and their organizations in the management and administration of the State.

Prevention of a possibility of the return to the totalitarian regime is linked with the consistent protection of basic human rights and freedoms - see the Charter of Basic Human Rights and Freedoms as a part of the constitutional order of the Czech Republic. In this case the State creates its own mechanisms and institutions for the protection of those rights; however, they are protected against the misuse of power by the State itself and its bodies against its own citizens on the basis of international conventions. The social function of the State and public administration arises primarily from the duties of the State owed to its citizens, which correspond to their economic, social and cultural rights in accordance with the Charter, the International Convention on Economic, Social and Cultural Rights etc. The role of the State (public powers) in those matters where the State also has a duty to fulfil positively or to secure such fulfilling has been a topic of permanent discussions, especially with respect to the issue of to what extent the principle of personal responsibility of each individual and the principle of human solidarity should be applied.

Administrative processes - strategic decision-making, the preparation of conceptions and programmes, regulatory activities, quasi-judicial decision-making, operative management, coordination, controlling processes etc. form the cross-sectoral functions which are contained to a certain extent in the activities of all administrative bodies or which are concentrated at certain levels or in special bodies in charge of these tasks. (The issues of administrative processes, the consequences of underestimating the management of public administration, deficiencies in the field of decision-making, coordination and other functions are dealt with in Chapter 4 of this Analysis.)

The evaluation of public administration depends upon the fulfilment of its tasks and functions, how it contributes to securing social tasks and aims. What is important are the results of its activities (or non-activities). Next, there is a question how suitable its internal organization is for the performance of its tasks and how it supports its external effectiveness.

The evaluation of the performance tasks and functions by public administration and of its social effectiveness is given

little attention in the Czech Republic. The system of control has not been comprehensive, the evaluation of public administration and its individual components is quite random, often in connection with public criticism only. Minimum political accountability, in comparison with Western democracies, is drawn even in such cases. Basic prerequisites for drawing personal liability of respective officials are missing: such as a basic definition of tasks and responsibilities, an evaluation system, the legal regulation of disciplinary liability. A system of positive motivation for reaching the laid down tasks and targets is missing as well.

## **2.2 Public administration and the public**

### **2.2.1 Experience and attitudes of the public and business circles**

The concept of administration as a tool of power still survives in a general understanding surviving from the authoritarian regime, which has maintained, on the one hand, the negative attitude of the population to public administration and, on the other hand, distorted ideas and stereotypes in the behavior and actions of a number of politicians and officials. Now it is primarily a matter of exercising a citizen's right to participate, including the expression of their views in a referendum, and other forms provided for by the legislation, the right to information (which some of our politicians find so difficult to get along in the ongoing legislative approval of the Information Bill) and to democratic control.

The following attitudes of the public and of business people to the functioning of public administration have been found out within the framework of the project:

The relation of the public institutions is characterized by a certain crisis of trust. The social distance between citizens and the administration is still considerable, in some cases even critical. The citizens are thus insufficiently informed of the reasons of the prepared reform of the territorial self-government and, consequently, they have not accepted it.

According to the survey, more than one half of citizens are not ready to get personally involved in solving public issues. The reasons are also their stress due to the transformation and insufficiently developed dialogue of the post-November governments with the civic society, in addition to inherited behaviour stereotypes (the people got used to keep silent under communism).

Most representatives of municipalities included in the survey (74%) consider the limited interest of citizens in what is happening in the municipality as one of the biggest problems of their work (second after the lack of finance - 84% of the interviewed). A certain promise for the future is represented by the latent interest in local self-government and, surprisingly, also in public administration expressed in the survey, under the condition that better institutional mediation of such participation is provided.

Public administration often fails to establish good contacts with citizens, either due to a low degree of its professionalism and impartiality, or to its attitude towards citizens. According to the survey, the mistrust of citizens in relation to the Government and ministries mostly prevails, and in some cases the disproportion is enormous.

### **2.2.2 The problem of bureaucracy**

Administrative staff is necessary in the present-day democratic state, however, it must be "non-bureaucratic bureaucracy" provides a "public service": since the State has

monopoly in providing such a kind of service and there is no competition, the State must take consistent and purposeful care in order to restrict significantly the inclination of the staff to bureaucratic behavior, especially when administration is no longer mere legal implementation of laws and as there is a steadily increasing need for its acting in a creative way and taking the initiative to be contact-friendly and "human" towards the public.

It should be noted that the relation between public administration and citizens has changed notably within the last 20 - 25 years. A citizen, who was originally mostly given orders and prohibitions, is becoming a partner, a user, a client. The administration thus gives up its privileged position, public administration is presented increasingly as a provider of services, and administration authorities are seeking ways of better and more open cooperation with citizens. Such far-reaching shifts could not have happened in our country yet but certain steps taken in the 1990s have contributed to the elimination of some obstacles between public administration and the public:

The renewal of local self-government and better organization of local authorities have helped to bring the administration closer to citizens at a local level a number of restricting regulations of the previous regime has been abolished (exit visa permits etc.)

In 1995, the government adopted its resolution No. 255/95 on the catalogue of measures to simplify and improve the execution of state administration in relation to citizens various forms of improvement in informing citizens.

The conducted analyses also show a number of problems and contain some suggestions for their solution. Particularly:

The administration is "non-transparent" for the public (a black box) if information barriers prevent anyone to get acquainted, without any obstacles, with their activities and with the information available to the administration. According to Article 17(5) of the Charter, state authorities and territorial self-government authorities are obliged to provide information on their activities in an adequate way but a statutory instrument which would regulate the discharge of this duty has not been adopted yet. So far, the provision of Article 35(2) of the Charter, according to which everyone has the right to timely and complete information on the state of the environment and natural resources, has not been sufficiently implemented yet. The principle of "discreteness" of the administration (intensified under the previous regime) is still being applied instead of the democratic principle of "publicity" of the administration.

Orientation not only in the legislation but also in the organization of administrative authorities and even inside the individual authorities is often difficult for citizens, despite numerous improvements introduced in recent years.

Sometimes the distance between a citizen and the administrative authority is also of importance, especially when the local public transport is being restricted.

It is important for the relation between administration and the public that the administration should not act arbitrarily, especially in decision-making in administrative proceedings. The citizen must not have the feeling that he is a mere "object" of the proceedings, that he can apply for something but then can only wait and keep silent. On the contrary, he must have a real right "to be heard", an opportunity to express his opinion and attitude.

The feeling of helplessness experienced by a citizen is often

connected with unjustified absence of activity of the administration against which the Czech legislation provides little protection so far although the scale of possible remedies is relatively wide.

The distrust of administration is also caused due to inconsistent prosecution of public offences (administrative delicts and criminal offences which should be detected and investigated by the Police of the Czech Republic). The knowledge that the administration prosecutes every offence impartially would undoubtedly have a positive impact not only on the general legal knowledge of citizens but also on the evaluation of public administration (it is expected that punishment has preventive effects as well and, in this sense, it should lead to an increased level of legal certainty, to the compliance with generally binding rules of behavior - the administration should provide "public service" in this sense as well).

Protection against the interference by public administration must be effective and fast, otherwise the public feels helpless in relation to the administration. The protection of subjective rights in administrative proceedings is relatively good but it still does not meet present-day requirements; a participant in administrative proceedings becomes an equal partner to the administration only within the administrative judiciary system; however, the present regulation of administrative judiciary also has its legal and material imperfections (delays in the proceedings which are often not held "within reasonable time"), the powers are not sufficiently wide (what is missing, e.g., is the possibility to demand protection against the inactivity of the administration and against legal instruments issued by the administration). In this sense, the Constitutional Court has dealt with these administration matters only exceptionally.

The petition right as one of the forms of the right to the freedom of expression often clashes with the barrier of reluctance of authorities to deal with the content of a petition (failure to reply within the deadline or failure to reply at all is not sanctioned at law although this could be a serious disciplinary delict of officials). A contact between the administration and the public is not sufficiently regulated. The right of a citizen to complain is still guaranteed by the government regulation No.150/1958 Ú.l. However, its language reflects the time of its adoption and the decree is relevant only as a government resolution. This issue should be dealt with not only by the Rules of Administrative Procedure and the future Civil Service Act but, in principal, by all - particularly organizational - regulations. The absence of legal regulation of complaints made to the Police of the and to a similar kind of institution is a significant deficiency, too. The institution of "ombudsman" could be of considerable importance for harmonizing the relations between public administration and the public. His task would be to deal with complaints not only relating legal steps of the administration but also concerning its non-activity, delays, inadequate forms of behavior etc. which usually cannot be solved in appellate or administrative proceedings. The task of ombudsman should be primarily to settle conflicts between the public and administration preferably at the beginning and, under favorable conditions, his activities could have significant preventive effects in relation to "cultivating" the administration.

The administration often burdens itself and the public by insufficient co-operation of its components (duplicating and



triplicating activities, citizens are demanded to submit documents and data that the administration could have obtained by itself in a more effective way etc.). So far, the laws regulate insufficiently such cooperation at central and local levels.

A citizen is not sufficiently acquainted with his rights and duties in relation to public administration. It is no exception that original requirements are changed by the public administration in the course of administrative proceedings.

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