

MODUL 4 Public Administration Reform in the Czech Republic after November 1989 - Basis, Course, Results, Trends

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Objective of the Study Text

The aim of this study text is to sum up the post-November reform of territorial administration in the Czech Republic and draw attention to lingering problems. However the chapter deals with the historic starting points of Czech administrative reform first because this involves its ideological basis.

Time pressure: 5h (self-study and preparation of questions and tasks)

Introduction

Administrative reform after November 1989 reacted to the characteristics of public administration from the period of communism and attempted to follow on from the democratising development of the pre-communist period. Hence, this chapter outlines the

- fundamental characteristics of democratic public administration whose further development was severed by the period of communism (and to a certain extent even earlier with the period of occupation and the Protectorate of Bohemia and Moravia)
- traits of public administration in the period of communism
- objectives of Czech administrative reform and its course.

1. Historical Basis of the Czech Administrative System

Although development of public administration after 1848 when the fundamental elements of the modern state (especially constitutionalism and a broader definition of fundamental human and civil rights, removal of feudalism) is important for the present system of public administration, the fundamental framework and principle of the functioning of public administration which persist to a certain extent to this day, it is established above all on those that were embodied in the entire period of absolutism. However, these reacted to the previous development and to the characteristics of the public administration which functioned on feudal principles.

1.1 Period up to the Establishment of the Czechoslovak State in 1918

As regards **central administration**, the joint authorities of the lands of the Czech state (Czech crown), with several exceptions, did not appear until the period of Habsburg rule. Before this

period, for the most part, there were no purposefully and newly established bodies for the administration of joint affairs. The developments after 1848 were then embodied in the fundamental characteristics of the democratic administration of the state which developed (not straightforwardly), for example in the period of the Bohemian Estates, when certain groups of society (usually divided into the nobility, clergy and later the bourgeoisie) came to have the right to decide about their own affairs independently (unlike the previous period) which limited the authority of the monarch who played a central role in public administration until the fall of the Habsburg monarchy (1918). The fundamental milestones of the development of bureaucratic central administration (which obviously builds on the previous development which will be dealt with in more detail later) can be summed up in several points:

- Tendencies towards the centralisation of ruling authority, which also brought in the concept of a bureaucratic authority, already began to appear after the accession of the Habsburgs to the Bohemian throne in 1526. Ferdinand I of Austria attempted to enforce a new concept of governance according to which foreign policy, financial administration and military affairs were the exclusive affair of the monarch derived from his majesty and represented the fundamental area of what today would be called the material competence of state administration.
- The constructive elements and principles of the functioning of bureaucratic administration (at territorial and central level) were developed more in the reign of Maria Theresa and in the years to follow. The fundamental tendencies of the development of administration in this period is the centralisation and removal of the effects of the estates system in public administration which was replaced by its bureaucratisation above all by nationalisation of central, land and regional administration, and state (central) intervention in municipal administration. An extensive and complicated bureaucracy emerged in this period whose tiered structure was characteristically derived from authority from above: all authorities were royal (later Imperial-royal – ‘IR’) and the officials were subject to higher officials. Traits were gradually introduced associated with the defining characteristics of state administration. In the period of absolutism, bureaucracy was constituted as a separate privileged rank of society which was already dependent on the monarch and not on the estates. Legal training was required as a qualification from a constantly greater number of officials. For example, in 1775 compulsory practice was introduced for every applicant for office in the civil service at regional authorities. During absolutism the philosophy of extending the circle of state interest was gradually enforced. It was built on the principle that the state’s obligation to take care of general welfare. This led to the creation of new administrative branches. The area of so-called political administration also took shape – everything that was not explicitly assigned to other administrative branches, i.e. especially justice and financial or military authorities, was to be part of the competence of so-called political authorities. Their common objective was to ensure state integrity as such. Political authorities in about 1764 already had an influence on the construction of roads, schools, clerical affairs, general circumstances, the work of the police, investigation of disputes between peasants and their patrimonies, support of agriculture, the postal service, guilds, public entertainment, trade, emigration and immigration, peasant affairs, building police, healthcare, etc. During the Theresian reforms school administration began being constituted. The importance of instance procedure grew when higher authorities controlled authorities at a lower instance and could intervene within the limits of the law in their activities and staffing, etc.
- The constitutional and administrative development of the Habsburg monarchy after 1848 did not stabilise until after Bach’s neo-absolutism which led to the issue of the October Diploma (1860) and a return to constitutionality, particularly the period after the so-called Austro-

Hungarian Compromise (1867). In this period the monarch still held an exceptional position in the rule of law. The emperor acted in a triple role as joint head of the monarchy, head of its two parts and head of each land. The emperor exercised executive authority through his ministers and their junior officials and attendants. Judicial authority was also exercised by the feudal lord and in the name of the emperor. Originally the 'court' authorities were transformed in March 1848 into the Common Ministerial Council. After 1867 the Common Ministerial Council consisted of ministries run by monocratic ministers who were responsible for the activities of their ministry. The state chancellor held the top position among these ministries, standing at the head of the foreign ministry and the imperial house. Ministry officials were considered only to be the minister's assistants and the minister was not bound by their opinion. The Common Ministerial Council decided as a body and the adoption of individual measures required the agreement of the other ministers. Here Malý (2003, p. 202) adds: "Although the ministries were only the emperor's assistants they did differ from the ministers of the absolutist state after the issue of the December constitution. They were responsible above all to the emperor, he appointed and dismissed them, and a minister could not remain in office without the emperor's trust. However, ministers were also responsible to parliament for the legality of the imperial government acts and for the legality of their administrative measures. The emperor therefore could not govern without ministers. Each act issued by the emperor required the relevant minister for its validity. However, the government was not of a parliamentary nature and its activity was determined above all by the emperor's orders and standpoints."

In the period of 1848 – 1918 the number of ministries often changed. Generally apart from the professional ministers as members of the ministerial council, there were also the so-called land ministers who were to represent their nations on the Common Ministerial Council. Here an official scale was in force which set the category of officials and their official rank on which salaries and other prerequisites were based. The highest instance of political administration, immediately as of its inception in March 1848, was the Ministry of Interior. It was in charge of running political-administrative affairs and the overseeing of all the authorities and bodies belonging to political administration.

In **territorial administration** throughout the period of development of Czech public administration there were mixed elements of centralisation (the efforts of the monarch to enforce his authority through his officials in the territory) and decentralisation (creation of administrative centres which were not in a position dependent on the monarch and his officials such as thanks to privileged status, distance from the centre, non-functionality of central ruling authority, etc. This was manifested at individual levels of territorial administration – municipal regional and land level (and land towns, including Prague and Brno), which all had their specific history. The fundamental characteristics of development of territorial administration up to 1918 can be summed up as follows:

- Throughout the period of administrative development (up until 1948) the **land structure** of the Czech state played an important role, i.e. the division of the state into Bohemia, Moravia, Silesia etc. An important role was played up to the period of enlightened absolutism by institutions which introduced the estates system and in which the estates attempted even to limit the monarch's authority (such as the land court, land diet). Some of them virtually existed until 1918. The land (just as the regional and municipal officials) were in turn paid by the state (monarch), appointed for a limited time (initially for 5 years) and the administration passed from their private buildings to official buildings.
- The territorial demarcation of the **regions** came about in the sphere of the judiciary and tax administration in around the 14th and 15th century when the regions were slowly transformed into administrative units. The number of regions was not stable, usually in the case of

Bohemia there were 12 to 16 regional units according to which various authorities were organised.

- Municipal administration also underwent its specific development. **Towns** began taking shape as human settlements of a higher order on the territory of the Bohemian state particularly in the 13th century. During the course of history, towns attempted to gain the possibility of sharing in the decision-making concerning the land's affairs (the political function). In the initial stage there was a verbal or written building agreement (a foundation charter) which expressed the terms and conditions of foundation and the rights that the future town could enjoy. Most often it was the monarch who acted as the decisive factor and the agreement took on the nature of privileges. As time went by even the nobility and church began to found their own towns and a further group of towns was established – so-called liege towns. According to the patrimony, the liege towns were further divided into church (bishop, monastic) and nobility owned towns. Their foundation required the monarch's approval, it was bestowed to the patrimony, not directly to the town. Its citizens were not personally free, but remained among the serfs of their patrimony.

The organisation of municipal administration of royal and liege towns depended on the extent of municipal privileges which formed the basis for municipal law. The king bestowed municipal privileges to royal towns in exchange for payment. The administration of a medieval royal town which was often copied in liege towns, included a **royal element** (the monarch had his own official in towns which in early municipal administration was the reeve) **and a self-governing element** (these were town boards and their members - councillors). In the late 14th century a further self-governing municipal body called the municipality was formed. This was a wider assembly of townspeople including the craftsmen (hence the name 'general' / 'great' municipality). The convening and proceedings of the municipality was a clumsy matter so it was not easy to reach a generally acceptable decision. Thus representatives of the municipality were soon appointed – 'municipal councilmen' / 'municipal elders'. The role of self-government / royal element grew and fell depending on the current position of the estates, power of the ruling (central) authority and royal authorities. During the period of absolutism the requirements for legal training began being enforced for at least part of the councillors. More significant changes in municipal administration came with the reforms under the rule of Joseph II. His reform, which is called the regulation of magistrates, took place in 1783 – 1785. It was based on the fact that the preserved categories of towns with all their sub-groups (royal, dowry, liege, etc.) no longer corresponded to the real meaning and power of individual towns. The existing category of towns was therefore replaced by a system of magistrates with experienced councillors and professionals, state-paid officials. The regulation of magistrates saw the town being divided into three categories according to their size and wealth. The smallest towns had to refer in important issues and in all judicial and legal affairs for decisions to the magistrate of the nearest city or to the justiciary of the nearby landed estate.

- Up to the revolution of 1848, an important role was played in the system of administration by the so-called **patrimonial administration**. This was the administration of the feudal authority (nobility, church, later also municipal), which was performed with regard to serfs. The authority also issued peasant orders for serfs and formed the basis of the legal life of serfs – the rules of conduct of serfs between each other and to authority which in some cases developed into a form of legislation of slavery. Significant changes in authoritative administration arose under Joseph II. You must know of the Patent on the Abolition of Serfdom (1784), which limited the powers of patrimonial authorities in allowing serfs to move, marry, trade, craft, etc., but it did not affect the basis of feudal relations nor the forms

of patrimonial administration. It brought tougher state supervision over the feudal lord and his officials. It was not until 1848 that serfdom was abolished as an important part of feudal relations in society and patrimony in its original and serfdom-based form. However, patrimonial administration continued in its official activity after the transitional period up to July 1850, when the new municipal order came into force (see above).

- The old administrative system lost its substantiation in 1848 with the abolition of serfdom when public administration had been performed in the first instance by patrimonial authorities or magistrates. Besides the already nationalised second instance (regional authorities since the reign of Maria Theresa), the first instance was nationalised in this period. In the western part of the monarchy a **double-track structure of territorial administration** began to take shape and was completed in the 1860s. It consisted of **bureaucratic state bodies** (as institutions of so-called political administration) **and self-governing public-law corporations**. Apart from nationalisation the revolutionary year brought with it another important change – the introduction of self-government of a modern concept. The main principles of self-government had already appeared in the draft of the Kremsier Constitution (1848/1849), where the vested municipal rights (in accordance with the local community of people) declared the free election of representatives, acceptance of members into a municipal association, administration of property and the work of the local police, also public results of municipal economy and normally public hearings. These main principles for the structure of self-government were transferred to the March Constitution (1849). Hledíková and Janák (p. 347) note the following: “The introduction of constitutionality in 1848 meant the full reconstruction of political administration and once serfdom had been abolished, it had to be decided which authorities would assume the administration that had been performed up to this time by patrimony. The simplest solution was that all political administration in the land be entrusted to state political authorities. However, patrimonial administration had been very extensive and it would therefore be necessary to establish a great amount of state authorities of first chair (instance) which would involve considerable financial expense. The starting point became the idea that all tasks of political administration should be entrusted to citizens who would be organised vertically and horizontally for this purpose as a public corporation”. Municipalities, districts and regions were entrusted with part of public administration which was performed by their own elected bodies.

The author of the new system of political administration and new concept of self-government was the Minister of Interior, Stadion. It is known as **Stadion's Municipal Order**. Stadion's provisional municipal order of March 1849 brought the first legislation of self-governing municipalities. It contained the principle that “the foundation of a free state is a free municipality”. The law spoke of local, district and regional municipalities. The provision municipal order was a comprehensive law which was to apply to all municipalities, districts and regions throughout the state. However only regulations about local municipalities came into force. Municipalities therefore became the lowest links and instances of territorial self-government. A special city (metropolitan) municipal order, so-called **statutes** was to be issued obligatorily only for land capital cities, and for regional and other important cities if they requested. Stadion's municipal order distinguished the two competences of a municipality. The municipality was to take care of its own affairs (this was the so-called natural municipal competence). The municipality could not be limited in this competence apart from cases envisaged by the law. As well as this natural competence there was also so-called delegated competence. This concerned affairs which were delegated to the municipality through the state.

- The development of the modern concept of the municipality as a public-law corporation with double competence was interrupted for several years by the onset of Bach's absolutist regime. After the fall of neo-absolutism and the issue of the October Diploma, interventions in self-government were gradually and partly removed (in 1861 elections were called for municipal bodies and public hearings were reintroduced, etc.). In March 1862 an important legal regulation was issued - **the Framework Imperial Municipal Code**. Under this code municipal laws were issued in the individual lands. These laws as amended in the case of the Czech state, stayed in force for the lowest level of self-government right up to the period after the Second World War. The municipal order of each land again applied to all municipalities of the respective land, with the exception of statutory cities. Municipal competence continued to be divided into two basic groups – 'independent' and 'delegated'. Independent municipal competence involved municipal property administration and affairs related to the municipal association. In Section 28 of the Municipal Order, separate competence specifically involved: 1. municipal property administration, 2. care for personal safety and property, 3. responsibility for municipal roads and bridges, 4. transport police, market order, 5. healthcare, 6. supervision of peasants and labourers and observance of the peasant rules, 7. vice police, 8. care for the poor and charity institutes, 9. building supervision, 10. administration of municipally administered elementary and secondary schools, 11. settlement of disputes between municipal members (by arbitration), 12. voluntary auction of movable property. Under transferred competence municipalities were obliged to perform affairs delegated to them by the law – delegated competence was characterised "as the municipality's duty to exert its efforts together for the purposes of public administration" (Section 29). Criminal authority was also part of delegated municipal competence (the mayor and two municipal councillors made up the municipal criminal court).
- Change in the organisation of political administration came only after the fall of neo-absolutism with the legislation of May 1868. A system was built which was also taken over virtually without change by the Czechoslovak Republic. Political administration was defined as being responsible for all affairs in the lands which ranked in the highest line of competence of the Ministries of Interior, Cults and Education, Land Defence and Public Safety and Tillage. The legislation also embodied the hierarchy of political administration in its vertical form – lands – districts (again headed by hejtmans (governors)) – place. The regions were not restored, only being restored as administrative units on the territory of the Czech state after the Second World War.

1.2 Public Administration in the Period of 1918 - 1948

This period includes the complicated stage of building the new Czechoslovak state, its breakup, which came about after the Munich Agreement, and lasted until liberation after the Second World War, and the rebuilding of the state and its public administration until the onset of communism.

The system of public administration of the **first Czechoslovak Republic** (i.e. the period from the establishment of the post-Habsburg Czechoslovak Republic until Munich 1938) was based on the so-called **Reception Law**. This law, which was later published in a partly amended version under number 11 as the law on the establishment of the Czechoslovak state of 28 October 1918, took over the entire rule of law and administrative system of Austria for the Czech lands and the administrative system of Hungary for Slovakia and Carpathian Ruthenia.

An important central body was the **National Committee** (NC), which appeared when the republic did not yet formally exist. It was created in November 1916 and was to protect the

political needs of the Czech nation outside the territory of the Imperial Council. The political parties within it were represented according to the results of the elections to the Imperial Council in 1911. The constituent meeting of the Czechoslovak NC was held in July 1918. The NC was a legislative and executive body, the Reception Law described it as the body of sovereign and unanimous will of the 'Czechoslovak nation'.

The (Prague) NC **established the highest administrative authorities** by Act No. 2/1918 Coll. of 2 November. This act created 12 'administrative authorities'. Further ministries were created in a short space of time to form 17 ministries altogether.

The National Council was in effect until 14 November 1918 when it was succeeded by the Revolutionary National Assembly which was not formed after regular elections (but by the legitimacy from the executive committees of all parties) and elected the first government of the Czechoslovak Republic headed by Kramář. However the day before it was disbanded, the NC issued the short **Provisional Constitution** (Act No. 37/1918). One of the principal tasks was to draw up a new constitution.

The final **Czechoslovak Constitution** was passed on 29 February 1920 (promulgated under number 121/1920 Coll.). It embodied the unitary nature of the first Czechoslovak Republic. It laid down the two-chamber legislative National Assembly, the role of the president of the republic, government and judicial control with the role of the Constitutional Court and Supreme Administrative Court.

The term political administration under the first republic was of similar content as in the previous period and the **Ministry of Interior** similarly represented an authority of the highest instance. The general competence of this ministry was all affairs not in the competence of other ministries. Later it also came to include the gendarmerie. The adoption of the system of administration led to the creation of the **Ministry for the Unification of Administrative Legislation and Organisation** (the so-called 'Unification Ministry'). It was established in July 1919 and its task was to unify laws and administration throughout the then entire Czechoslovak Republic.

The efforts to unify administration resulted in the issue of the so-called County Act (No. 126/1920), which did not resolve the situation (it only applied in Slovakia) and the so-called Organisation Act (No. 125/1927), which was to function from 1927? and public administration in the form the act embodied for the remainder of the existence of the first republic without any major changes. The Organisation Act entrusted the decisive position in state administration to the Ministry of Interior to which all 'political authorities' were officially subordinated. The political authorities with general competence according to the Organisation Act held second instance to the land authorities and the district authorities first instance. A regional arrangement was not applied. The land authorities headed by land presidents were established in 4 lands ('land administrative districts'): in Prague for the land of Bohemia, in Brno for the land of Moravia-Silesia which was established with the merger of Moravia and Silesia; in Bratislava for the Slovak region and in Uzhorod for the land of Carpathian Ruthenia. Each land was to become an independent legal entity with its own bodies. The Land Authority oversaw the district authorities. The Minister of Interior decided about the legal compliance of the acts of the elected land bodies. District authorities were set up in the districts. These were headed by district hejtmans (governors) who were appointed by the Minister of Interior and were responsible to him and to the land president. Prague, Brno and Olomouc administered the function of the district authorities.

Besides the political authorities the Reception Law also took over the bodies of **territorial self-government** in 1918. Some amendments were made to the Municipal Order. The amendment of the Municipal Order of 1919 distinguished these regular municipal bodies: municipal

council, municipal board (formerly the board of councillors, the number of councillors, just as today, was derived from a 1/3 number of members of the council), as well as its councillors the municipal council also elected the mayor and his deputy from its members. The election of the mayor did not originally have to be confirmed by the state. Only the later legislation of the Act (in 1933) laid down that the election of the mayor would have to be further approved by state authorities (the Ministry of Interior or the Land Authority). The right of the municipality was to establish advisory and preparatory bodies in the form of commissions. The commissions were optional but it was compulsory to establish financial commission in each municipality.

A change to the election rules brought very important changes. The new election rules were adopted by Act No. 75/1919 Coll., which allowed – as opposed to the previous legislation based on census – universal, equal, secret ballot and direct right of vote during elections to all municipalities (men and women) who had permanently resided in the municipality for at least 3 months, were not specifically disqualified and had reached the age of 21. A passive right of vote was allowed from the age of 26 and the candidate had to live in the municipality for at least a year. The duty was laid down for every voter to participate in elections. Some persons were released from this duty (e.g. doctors, people over the age of 70, people who could not get to an election room due to illness, physical disability, for urgent duties of their office or profession, a legitimate reason for not being able to vote was also a breakdown in public transport). It was the duty of employers to change working hours or service on the day of the elections so employees could participate in the elections. Each voter was also obliged to accept the vote of the member of the municipal council, municipal board or commission. Exceptions were defined in Section 8. In Section 29 the Act also prohibited “the selling, tapping or serving of drinks containing alcohol” on the day of the elections in the municipality. The first elections to the municipal councils were held in June 1919. There was a four-year election term which was extended in 1933 to 6 years.

The legislation empowered the government **to merge or separate municipalities, change the boundaries of municipalities and districts** by the end of 1919. The Act added “At this time there was no need for the good opinion, statement or approval of the municipalities or any other administrative bodies, authorities or legislative bodies involved regarding these measures.” The government only had to make the planned acts public in the affected municipalities for a period of 8 days. The merger was embodied, for example by Act (No. 213/1919 Coll.) on the Merger of Neighbouring Municipalities with Brno. Under this act over 20 cadastral (land-registered) municipalities were merged with the land capital cities and ceased to be municipalities, becoming just one municipality to which the Municipal Order of the City of Brno applied. The act noted that “the merger of further municipalities directly neighbouring with the capital city of Brno would merely require the resolution of their assemblies... and the resolution of the council of the capital city of Brno” (Section 11). A similar merger occurred between Olomouc and its surrounding municipalities.

The period of the first stage of building the Czech state ended with the so-called **Second Republic**. This is the time period from the conclusion of the Munich Agreement in late September 1938 to the occupation in mid March 1939. Shortly after Munich, on 6 October 1938, the Slovak National Manifesto was issued, which demanded the right of the Slovak nation to self-determination and safeguard of the right to decide about its future national life, including determining its state order (so-called Žilina Agreement). These events led to the issue of constitutional laws on the autonomy of the Slovak land and on the autonomy of Carpathian Ruthenia. The Slovak land was declared an autonomous part of the republic which was newly and officially called the Czech-Slovak Republic. According to some administrative historians, Czechoslovakia ceased to be a unitary state with the adoption of the constitutional laws on autonomy. Gradual developments brought the decisive role of protectorate administrative

authorities (derived from Hitler's decree of March 1939) and the division of the citizens of the Protectorate into full German citizens, Czech citizens with protectorate citizenship and citizens to which racial regulations apply.

What was important for the further development of the state during the period of occupation was the concept that the Munich Agreement and everything that followed it (i.e. the Second Republic and Protectorate) are legally invalid. Gradually a system of bodies was created known as the **Provisional State Order** consisting of a president, government and State Council. It was assumed that Beneš was still president, that he had never legally ceased being president, that his abdication after Munich was legally invalid and that the president alone acts fully as the holder of constitutional continuity and therefore appoints the government and established the State Council. In constitutional terms the most important document which legally established the concept of the continuity of the first republic was the Constitutional Decree of the President of the Republic No. 2/1940 of the Official Journal of October 1940. The decree addressed the impossibility of convening the National Assembly. It embodied the principle that the president of the republic would perform acts laid down for him in Section 64 (1) and (3) of the Constitutional Charter (Constitution of 1920), and requiring the approval of the National Assembly, with the government's approval. It also laid down that legislative activity will be performed for the period of the Provisional State Order, in urgent cases, by the president of the republic at the government's proposal in the form of a decree which was co-signed by the prime minister, resp. members of the government authorised to perform this activity.

Part of the preparations for organising the circumstances that had arisen after liberation was above all the Constitutional Decree on the Temporary Administration of Liberated Territory of August 1944. This established the Office for the Administration of Liberated Territory. In August 1944 the important Constitutional Decree on the Restoration of the Legal Order was approved and dealt with the problems of legal continuity. This decree laid down that the regulations issued before 28 September 1938 were based on the free will of the people and are part of the Czechoslovak rule of law, regulations from a time when the people lost their freedom (the time of occupation, i.e. from 30 September to the end of the war), were not part of the Czechoslovak rule of law. The outcome of the issue of continuity of the post-war organisation was the Constitutional Decree on National Committees and the Provisional National Assembly. This decree was to set up local, district and land national committees on liberated territory to operate as provisional state administrative bodies in all their fields. This decree also dealt with the situation in the municipalities and districts "with an absolute majority of unreliable state citizens".

The first government on the territory of the liberated Czechoslovak Republic was constituted on 4 April 1945 and its seat was in Košice (also called the '**Košice Government**'). On this day the first post-war government programme (the Košice Government Programme) was declared in Košice. It embodied the fact that the state would be a people's democracy which will ensure fundamental political, economic and social changes. The draft programme was drawn up and presented to the Moscow leadership of the Czechoslovak Communist Party (CCP). According to the programme the relationship between the Czechs and Slovaks was based on equality, however its legal state solution was not assumed until after the full liberation of the republic. In the economic area, it embodied the requirement of the confiscation of the property of fascists, traitors and collaborators, carrying out land reform and the principle of building a monetary and credit system, key industrial enterprises, an insurance sector, natural and energy resources under general state leadership. The Košice Government was a collective body and had 16 ministries. The seat of the government of the Czechoslovak Republic after 10 May became Prague.

As a follow-up to the Decree of 1944 on the Form of Post-war Administration further legislation was issued after the promulgation of the Košice Government Programme such as the

Constitutional Decree on the Election of the Provisional National Assembly and the Government Regulation on the First Elections to the District and Land National Committees. The elections to the entire representative system were delegating elections. The local NCs elected electors at public meetings in all the municipalities. These electors then came together at district assemblies. District national committees and delegates for the land congresses were elected at these assemblies. Land national committees and deputies to the Provisional National Assembly were elected at these congresses. The Provisional National Assembly was created on the basis of indirect elections. It was a single chamber legislative body and its tenure was subject to the time until the convening of the Constituent National Assembly whose election was to be prepared by the Provisional National Assembly. It was to confirm the president of the republic in his office up to the new elections. It was also to ratify – additionally (not) approve the presidential decrees adopted during the foreign resistance. It was also to exercise reasonable powers of the National Assembly according to the 1920 Constitution.

The first elections in post-war Czechoslovakia were held on 26 May 1946. It was on their basis that the Constituent National Assembly was created as a single chamber body with 300 deputies. The elections brought the victory of the CCP. In Bohemia the CCP won more than 40% of votes, in Moravia 34% of votes. In Slovakia the strongest party was the Democratic Party with 62%, the Communist Party gained 30% of votes. The elections ushered in the further development culminating in the takeover in February 1948. They also influenced the development of mutual Czech-Slovak relations. An asymmetrical model of the exercise of state authority was adopted – the Slovak National Council (SNC) was the only competent body in Slovakia and was to exercise “full legislative, government and executive authority”. There was not equivalent body for Bohemia.

National committees began to appear in the Czech lands and in Slovakia during the liberation. Their legislation was based on the Decree of the President of 1944 and formed a three-level structure of national committees ((local, district and provincial NCs). The NCs were considered “representative bodies and bodies of public administration in all its areas”. So there was no return to the pre-war administrative organisation after the war. These were bodies of state administration and self-government. Gradually lower-level committees became subordinate to higher-level committees. These tendencies were more significantly enforced after February 1948. However Gottwald had previously presented the proposed new government to President Beneš. It was appointed by the President on 2 July 1946. On 8 July Gottwald appeared before the Constituent NA with his government’s policy statement (this was the so-called ‘Constructive Programme of the Third Government of the National Front of Czechs and Slovaks’). The new constitution was also being drawn up.

1.3 Public Administration in the Period of Communism: Period of 1948 – 1989

The political course that was set at the end of February 1948 was also confirmed by the new constitution of the Czechoslovak Republic, also called the **9 May Constitution**. In the fundamental articles of the constitution, specifically in Article 4 (I) it is stated: “The sovereign people exercise the state authority of the representative bodies that are elected by the people, controlled by the people and responsible to the people”.

The supreme body of legislative authority, as embodied in the Constitution, was the single chamber National Assembly (elected for 6 years). The president was to be elected by the National Assembly for a period of 7 years. The government which was defined as the supreme body of “government and executive authority” was appointed and dismissed by the president of the republic and was responsible to the National Assembly. According to the Constitution,

the supreme the holder and executor of state authority in Slovakia and the representative of the distinctive nature of the Slovak nation were to be the Slovak national bodies – the supreme body of legislative authority was the Slovak National Council, the Board of Commissioners was also constituted to act as “the national body of government and executive authority in Slovakia” responsible to the SNC and appointed (and dismissed) by the government of the republic.

At the end of April 1948, new elections were held to the National Assembly in accordance with the new election legislation. These were the first elections in which there was only one National Front ‘candidate’. The Election Act (No. 75/1948 Coll.) also stipulated the duty to vote. The authority of the CCP was reinforced in June 1948 with the election of Gottwald as president of the republic. He subsequently appointed a new government in which the Communist Party was clearly the dominant party. The other members of the government were representatives of the political parties of the ‘revived’ National Front.

Chapter 6 of the Constitution is fundamental in terms of the organisation and performance of public administration which deals with national committees. The Constitution is characterised as the “holder and executor of state authority in the municipalities, districts and regions, and the guardian of the rights and freedoms of the people”, as the executor of state authority (without a distinction between state administration and self-government). In Section 125 the competence was relatively generally and broadly (including safety functions) defined of the national committees and centralisation in the form of a uniform plan – “National committees as bodies of uniform people’s administrations have the following tasks: to protect and strengthen the people’s democratic order; concur in the fulfilment of tasks of state defence; take care of national security; support the maintenance and cultivation of national property; participate in drawing up and executing a uniform economic plan; plan and manage economic, social and cultural construction on their territory as part of the uniform economic plan, secure the preconditions for continuous agricultural and industrial production and take care of supply and nourishment of the population; take care of national health; find justice in the field of their competence, especially exercise criminal authority within the limits stated by the law.” The Constitution did not consider lands. It distinguished basic territorial levels and introduced regions in place of lands. The regional level of national committees (RNCs) was introduced later by Act No. 280/1948 Coll.

Gradually legislation introduced the leading role of the Communist Party (and the management of administration by the government), centralisation and removal of the division of authority. Officials became state employees allocated to individual authorities, and it was their loyalty to the given regime that was important for their choice rather than professionalism. This was also approved constitutionally – **by the Constitution of the Czechoslovak Socialist Republic** (of July 1960) and its later amendment which embodied the **Federation** of the Czech and Slovak State (this was specifically Act No. 143/1968).

The new **territorial division of the state was regulated by Act No. 36/1960** for the territorial organisation of public administration in the period of 1960-1989, but also in the period to follow. The Act reduced the number of regions (8 so-called large regions were created) and the number of districts (in Bohemia from 180 to 76). In the newly constituted regions there were some cases of relations deteriorating between the new regional centres and cities which lost their status of regional centres in this change to the territorial division of (e.g. the relationship of HK and Pardubice).

Legislation from the period of communism more explicitly stressed than today (e.g. laws on municipalities and regions) the **role of communication with the public**. For example, it incorporated public talks into the system of the work of national committees. Citizens had the

opportunity to come to these talks with suggestions, remarks and complaints about the activity of the NCs. According to Section 5, local NCs in bigger municipalities also had to create a network of public administration confidants in plants and partial districts (in quarters, streets, blocks, houses) that were to convey to the local NC the wishes, proposals and complaints of the people and communicate the resolutions of the local NC among the citizens.

The problem that arose in practice already in the second half of the 1960s was the question of securing the administrative agenda of the local NCs operating in **small municipalities** – with fewer than 2,500 inhabitants. The local NCs in these municipalities did not establish departments but their functions were carried out by commissions. According to Čechák, their **competence** to ensure the regular administrative agenda was not adequate enough. There was more than 75% of these ‘small’ municipal and local national committees, which meant that in the decisive part of the fundamental link of the system of national committees the performance of administrative agendas (and those fundamental ones) was not secured on a professional level by qualified workers. Thus it began to be considered creating ‘bigger’ municipalities because increasing the number of qualified workers in all municipalities would not be economical.¹ In the late 1960s the governments of the republic addressed this problem by discussing and on the basis of proposals elaborated by the regional NCs approved the proposal of so-called **centres of prospective settlement**. In the Czech Republic 170 municipalities were proposed as centres of district and regional importance and 1029 municipalities as centres of local importance. In Slovakia 77 municipalities were marked as centres of district and regional importance and 606 as centres of local importance. Centres of local importance were to be constituted in appointed local NCs with one department and secretary. The central system of settlements was put into practice by the Government Decree of the Czechoslovak Republic No. 283 of 1971. Local NCs constituted in central municipalities established at least one or two departments staffed with **‘released’ workers** – it was assumed that they would have the relevant professional qualifications.

The implementation of the plan of central municipalities during the 1970s and in the first half of the 1980s reduced the number of local NCs which were in the competence of one district NC to about one fifth.² In a number of cases **administrative directive methods** were used. In reality **two main procedures** predominated: a) either a new territorial administrative unit was created with the merger of several existing municipalities into one unit or b) one joint local NC was constituted for several municipalities (without a merger).

The real effects of the project of central municipalities is summed up by Čechák (p. 94 - 95) as follows: *“Municipalities marked as ‘centres of local importance’ became not just seats of local NCs, but also central municipalities with all the ramifications. Usually services (newly-*

¹ In 1972 there were more than 10,000 municipalities in both republics (NCs were not established in all of them). In the Czech Republic there were 420 municipal NCs, 13 district NCs (10 in Prague and 3 in Brno). Simultaneously there were 6,823 local NCs in the Czech Republic, 1,239 of them were in municipalities in which the population did not exceed 300, there were 3,355 committees in municipalities with a population under 600, 1,770 local NCs in municipalities in which the population did not exceed 1,500. There were only 413 local NCs in municipalities with a population under 3,000. In the Czech lands there was an average of 90 local NCs to one district NC, in Slovakia the average was 72 local NCs (besides municipal NCs) (it must be pointed out that these are average data, in the Czech Republic in some districts the number of local NCs “controlled” by one DNC exceeded 120, on the other hand in some districts, especially borderland and mountain districts with a low density of settlements, the number of local NCs falling into the sphere of the scope of one DNC, did not amount up to 50). According to Čechák this situation (93 et seq.) was very difficult to sustain constantly by the existing method of directive management.

² According to Čechák a significant decrease in the number of NCs at the fundamental level of the division of administrative bodies created preconditions of ideas about a possible prospective reduction in the existing “three-level” system of NCs to a “two-level” one. However the three-level system of NCs remained throughout the period of their existence.

built self-service shops, centres of local economic enterprises, etc.), health centres, cultural centres and so on were concentrated in them. The creation of central municipalities also affected the form of the network of schools. Gradually 'small-class' schools operating in 'non-central' municipalities were closed and the 'transfer' of their pupils to schools in central municipalities. To a certain extent the creation of central municipalities also had an impact on changes in the 'local' and 'district' infrastructure (especially transport). One of the problematic ramifications of these changes was the gradual 'desertion' of smaller municipalities, especially in borderland and sub mountainous areas"³. The reform had an impact on the deformation of the natural development of the system of settlement. Its implementation led to a decrease in the number of municipalities from ca. 10,000 in 1960 to almost 4,000 in 1989. The fact that professionalism was not achieved to the expected extent can be seen in the requirements of the later Act (CNC No. 49/1982 Coll.), which amended the regulation of the **competence of local NCs in central municipalities**. It also laid down that "**a local NC with extended competence**" operates in a municipality which will be designated as a central municipality by the regional NC at the proposal of the district NC. The annex of the quoted act delegated a number of competences that pertained to the district NC up to this time to the local national committees.

Questions and tasks:

- Characterise the development of public administration in the period up to the onset of communism. Do not forget the role of municipal administration and its specific development. What did the so-called 'Stadion System' bring in this context?
- Characterise the development of public administration in the period of communism. How was the issue of a big number of small municipalities addressed? What was the aim of the project of central municipalities and what effects were achieved according to its commentators?

2. Principal Objectives of Administrative Reform after November 1989

The reform of public administration in the Czech Republic after November 1989 has a number of similar characteristics just as public administration reform in other post-communist countries. Initially the main efforts of public reform in the Czech Republic, just as in other countries of the Central and Eastern European region was a renaissance of democracy and their values in the rule of law and in the management and life of society. This was associated with the efforts to reintroduce and strengthen self-government which was also manifested in the decentralisation and deconcentration and building of relevant forms of fiscal federalism (system of public budgets and their dependence on the state). Among the proclaimed objectives of reform in the Czech Republic was also the endeavour to implement the idea of the principle of subsidiarity when the responsibility for public affairs is to be borne above all by bodies that are closest to the citizen, however only if a body at a different level cannot deal with the matter better (more efficiently).

³ Čechák, V. Opus citatum, p. 94 – 95.

According to the analysis of the National Training Fund (NTF, 1998) the process of democratic and pro-market transformation of society begun in November essentially required the fundamental transformation of public administration which also involved overcoming the legacy of the totalitarian regime. The totalitarian regime nationalised public administration and subjected it to the power monopoly of the CCP. State administration was the fundamental instrument of the implementation of political and economic authority as well interference in all areas of social life and the limitation of human rights. So-called 'democratic centralism' was marked by the directive administrative manner of managing the national economy and individual fields and sections of state administration. It ensured a high level of centralisation and did not allow an autonomous self-governing sphere. Territorial and interest self-government and the communal and regional ownership connected with territorial self-government were abolished. The participation of citizens in administration could not be implemented in free democratic elections and was limited to secondary communal policy and local activities, especially to criticism of public services and local self-help.

According to programme documents, the reform of public administration in the Czech Republic was also to inspire with the experiences of countries that had made progress with reform earlier. Efforts were also to be made to strengthen the prestige of public administration in the eyes of the public, the fight against corruption and creation of a public administration which would acquire a modern character of a civil service. A number of these proclamations can still be found in the Czech programme documents of public administration reform, only the scales change in the way these objectives are projected into the priorities in the programme documents speaking of changes.

In the Czech environment it is good to talk separately about territorial reform and central public administration reform above all with regard to the various post-November 'history', the visible scope of reform activities and outcomes of reform in both these areas.

2.1 Transformation and Consolidation of Territorial Public Administration

Transformation and consolidation in the Czech context of public administration reform can be traced above all to the period after November 1989 to the start of the new millennium (although there have been certain recent transformation processes in the setup of the administration of social policy, etc.). This period is characteristic above all for laying the foundations of a general territorial public administration. The legislative framework which was setup in this period applies for the most part to this day.

2.1.1 Post-November Changes in Local Administration and the New Role of Municipalities as a Fundamental Link of Public Administration

According to the new post-November legislation, the **municipality** became the fundamental territorial administrative unit and simultaneously an entity of general public administration. The Constitution of 1960 was changed and its chapter seven on national committees was replaced by local self-government. Subsequently the status of municipalities in the Czech Republic by the **CNC Act No. 367/1990 Coll.**, which in its amendments was valid until it was replaced by the present Act on Municipalities (Act No. 128/2000 Coll.). This act also **repealed the Act on National Committees** and the entire existing system of national committees. According to the act, the rights and obligations of national committees and municipal national committees were to pass to the municipality in which these national committees had their seat as of the effect of this act.

According to administrative historians, the post-November Act on Municipalities meant a major change in the organisation of territorial public administration. It distinguished **self-government** from state administration (delegated competence) and replaced it with a centralist ‘uniform state authority’ which was exercised by national committees in the period of communism. The municipality was understood by the new act as a legal entity which acts in legal relations on its own behalf and bears the responsibility arising from these relations. The act distinguished, as you have already noticed in the summary of the functions of individual bodies, **the double competence of the municipality** – independent competence (“the municipality administers its own affairs independently”) and delegated competence (“in the scope laid down by special laws” and in the scope they had been performed by certain categories of local and municipal national committees as of the effect of the act). It therefore embodied the **so-called combined/mixed model of municipal public administration**, when the same municipal bodies (above all municipal/city authority) could, apart from self-government, also perform state administration which is still the case today. The Act on Municipalities created a **single-level system of self-government** – municipal councils were basic and single level territorial self-government. The Czech National Council (CNC) was the higher elected representative body, virtually the supreme body within the republic.

The new Act on Municipalities embodied various types of municipalities (it distinguished the municipalities, towns, statutory cities and capital city of Prague); it also laid down the mutual relationship of the municipalities and their bodies with regard to the state administrative bodies. *“A city is a municipality in which a municipal NC operated since the beginning of the effect of this act and a municipality which is appointed by the presidium of the CNC at the proposal of the municipality or proposal of the municipality after an opinion of the government.”* The act does not speak of any criteria that need to be met so the municipality can become a city. The statutory city was determined by enumeration.⁴

A group of more than 380 municipalities emerged already on the basis of the post-November Act on Municipalities which performed state administration even for citizens of neighbouring municipalities and still exist – so-called **municipalities with an authorised municipal authority** (sometimes also ‘binaries’ / ‘binary municipalities’), which still perform some state administrative agendas even for small municipalities (their citizens).

Act No. 368/1990 Coll. on Elections to Municipal Councils, adopted on the same day as the new municipal order, was important for the activity of municipalities. This act specified the right to elect; it did not speak of the obligation to elect as the election rules of the previous period. It also did not introduce the direct election of mayors (city mayors) as did Slovak legislation and mayors elected by municipal assemblies in future.

The post-November Act on Municipalities **also applied to the city of Prague**. It laid down the division of the capital city into city boroughs which, at the date of the effect of the act, were directly administered by district national committees and the territorial districts by local national committees. The status of Prague was generally regulated by Act No. 418/1990 Coll.

Apart from the merger of municipalities, the Act on Municipalities also allowed the **division of municipalities** into two or more municipalities. However, the act originally did not determine any criteria associated with the minimum size of municipalities established after division. The division of a municipality was to be decided by the Ministry of Interior at the proposal of the municipality. The municipality was to submit the proposal based on the results of a local

⁴ According to Section 3 (1): The cities of České Budějovice, Plzeň, Karlovy Vary, Ústí nad Labem, Liberec, Hradec Králové, Pardubice, Brno, Zlín, Olomouc, Ostrava, Opava and Havířov are cities with a special statute. Every further city could become a statutory city appointed at the proposal of the government or at the proposal of such city after an opinion of the government by the presidium of the Czech National Council.

referendum. The Ministry of Interior could explicitly reject this proposal according to the act only the newly established municipalities would not be able to meet the tasks according to this act. Unlike the trend in Western European countries, after 1990 this led to **disintegration processes**, which were also motivated by the administrative way of merging municipalities in the period of communism (see in the previous lecture on the central municipality's project). In 1989 there were 4,120 registered municipalities in the Czech Republic. In 1990 1,684 municipalities became independent and from 1990 – 2000 a total of 2,199 municipalities became independent, of which 35.6% were in the population size group of 200 – 499, 32.5 % in a population size group of 100 – 199 and 16.8 % in a population size group of 50 – 99 (Vajdová, 2006). Of course, stimuli also existed resulting in disintegration processes at municipal level, especially defining the identity of a relevant settlement and economic expectations associated with the possibility of self-government decision-making on municipal affairs.⁵

2.1.2 District Authorities and their Role

The second important territorial level of the post-November system of public administration were the districts in whose territory state administration had been performed by **district authorities (DtAs)**. These were established by the CNC Act No. 425 in cities which were seats of the district NCs. The basis applied was the territorial division of 1960. For a certain period DtAs were to perform **the function of founder** of some state enterprises which had hitherto been performed by district and regional national committees and they were also to manage budgetary and semi-budgetary organisations and facilities managed as at the effect of this act by district and regional national committees.

The mission of the district authorities was **to perform state administration** in their territorial districts. On the basis of authorisation in the law and within its limits, district authorities could issue **generally binding decrees** for their territorial districts. The competence of the DtA was generally defined in Section 5 of the Act as follows: *The district authority*

- a) *performs state administration in affairs stipulated by special laws,*
- b) *performs state administration which as at the effect of this act, pertained under special laws to the district national committees, unless delegated to the authorised municipal authority or is not repealed by this act,*
- c) *performs state administration in affairs stated in Annex I to this act,*
- d) *reviews decisions of the municipal bodies issued in administrative proceedings,*
- e) *controls the activity of authorised municipal authorities and municipal bodies in the section of their delegated competence and provides them with professional assistance in this section,*
- f) *stipulates for the authorised municipal authorities²⁾ their territorial district so that each municipality is incorporated into the territorial district of some authorised municipal authority.*

The obligation stated in e) was very important for the activity of the municipalities. In connection with this activity, the district authorities also secured a uniform interpretation of issued regulations and guidelines (instructions) and unified procedures when using them in practice.

In its territorial district, the district authority was obliged to organise the election of the **district assembly** within 60 days as of elections to the municipal assemblies. This election was indirect and the members of the 'district assembly' elected municipal assemblies by secret ballot at their

⁵ See also Matula, M. Reforma územní veřejné správy v České republice. In Integrace, 13 July 2001, [online].

sessions. The number of members was determined at a ratio to the size of the population in the relevant district. The district assembly met at least twice a year and was convened by its head. The assembly was to check the activity of the DtA, approve and check the budget of the district authority (which was to be balanced) and ensure the accounts of the management of the district authority for the past calendar year, approve the distribution of grants to individual municipalities and assert the common interest of the municipalities at the district authority. In the scope of its powers it could also assign tasks to the head of the district authority (in the form of a resolution). In the cities of Brno, Ostrava and Plzeň, the city council was to meet the function of the assembly.

The management and control of the district authority's activity was in the competence of the **government of the republic**, which was to deal with basic questions applying to the performance of state administration by the district authorities, unify the activity of the central bodies of state administration in relation to the district authorities. The **Ministry of Interior** safeguarded the management and control activity within the government. This coordinated the issue of guidelines to central bodies of state administration directed at district authorities, regularly performed an analysis of the activity of the district authorities and organised meetings with their heads. It also organised the training of district authority workers, also stipulated (in agreement with the relevant bodies of state administration) the preconditions for performing the functions of the DtA which required **special expertise** (in the official jargon so-called 'Specex'). With the government's approval the Ministry of Interior also determined the total number of employees of the district authorities. Further central bodies of state administration (of the republic) contributed to the management of district authorities by issuing generally binding legal regulations and guidelines.

2.1.3 Regional Administration after November 1989 and the Constitutional Changes of 1997

The system of national committees was abolished in 1990 together with the abolishment of the regional national committees (RNCs). As a result and for a relatively long period of post-November administrative history there were no entities in the Czech Republic which would perform general public administration in the regions or at a different type of **regional level** (e.g. at land level) in a similar way as municipalities performed at municipal level and district authorities at district level.

The area of state administration was transferred from the abolished regions after the RNCs were abolished to the district authorities and central authorities which performed state administration at territorial level by their so-called **deconcentrates** (e.g. financial authorities, labour authorities, Czech Social Security Administration, various types of inspection offices). The consequence of the non-existence of a regional level of general administration was an increase of the number of deconcentrates which made it difficult (and still makes it difficult) to coordinate state administration and significantly deepened the isolation of individual state administrative departments.

Until 1997 there were discussions about the possible organisation of regional public administration which, to a certain extent, considered the previous trend (even the pre-communist). The structuring of the state into a region type land or region or a combination of both was considered. Discussions about the method of organising region (over-district) administration can be summed up as follows:

- In **1991** the Ministry of Interior drew up and submitted to the government two options – land and regional. Both respected the specification that the basic unit of territorial self-

government was the **municipality** and the basic unit of territorial state administration the **authorised municipal authority**.

According to the land option, 3 lands were to be the second level of territorial self-government – Bohemian, Moravian and Silesian. State administration was to be performed only at two levels – by authorised municipal authorities and district authorities.

The regional option worked with a two-level model of self-government and a state administration with 22 districts which, apart from the district authority with general competence, were also to have a self-governing district assembly.

- In February 1992 the government of the Czech Republic discussed and passed bills which were to implement the **land option**⁶. However the bills to implement the land option as discussed and passed by the government were not discussed by parliament due to the breakup of the federation at the end of 1992.
- Even the new **Constitution of the Czech Republic (Act No. 1/1993 Coll.)** practically did not alter the situation, which in its Article 99 assumed the republic to be divided into municipalities as basic territorial self-governing units and into ‘**regions or lands**’ as higher territorial self-governing units (HTSU). According to Vidláková (2000, p. 29) discussions on the concept of the reform of territorial self-government were constantly politicised. *“There was only agreement in the fact that reform was required. The most difficult discussions constantly revolved around the state territorial administrative division which as turned out became above all a political and not a specialised or specialised technical affair”*.
- In 1994 Government Decree No. 525 approved the document entitled **Plans of the Government of the Czech Republic for Public Administration Reform**, which was subsequently presented to parliament. In it the government also declared that it agreed with the model if the HTSU level being introduced to the system of public administration to which the law would also delegate part of state administration (the same connected model of administration as for the municipalities). The first-instance competence of the ministries was to be delegated to the maximum possible extent to the powers of these higher units. In this document the government planned to preserve the district authorities. It was explicitly stated here that the government had not been able to decide how to organise state administration and self-government at the HTSU level. The non-existence of regional self-government was also criticised by the standpoint of the European Commission in response to the Czech Republic’s application for European Union membership published in July 1997.
- The outcome of the political consensus, however not a solution in itself, was **Constitutional Act No. 347/1997 Coll.**, which came into effect as of 1 January 2000 and created 14 regions. Cogan (2004, p. 79 – 80) states that determining the number of 14 higher territorial self-governing units ended discussion ranging from three units (Bohemia, Moravia, Prague) to a number equivalent to the number of districts. The strongest alternative was the parliamentary proposals directed at creating eight regions. The government’s proposal came up with thirteen regions; however the constitutional committee and committee for public administration, regional development and the environment recommended the extension of the proposal to include the Jihlava Region. The Constitutional Act also repealed the article under which the name of the HTSU was to be decided by its council, due to concern about the risk of the lack of uniformity in the description of the region’s names. Matula notes that the regions established by the Constitutional Act of 1997 roughly correspond, in territorial terms, to the regional division of the years 1949 – 1960. The passing of the Constitutional

⁶ The draft amendment of the Act on Municipalities, Bill on Provincial Local Government, Bill on District Authorities, Bill on Statutory Cities and Cities with special status and the draft amendment of the Act on the City of Prague.

Act for the creation of 14 regions of 1997 was a partial solution above all because the constitutional changes only embodied the territorial basis of higher self-governing units – but the constitutional amendment did not embody the boundaries of the self-governing regions (specific competence and powers of the regions and their bodies). It did not state anything about their functions, whether their bodies would also perform state administration just as the municipalities had done until then. It only assumed the existence of their assemblies as leading political bodies of their self-government. Hence logical questions arose regarding what the regions would do and what bodies these new regions would have.

The conceptual regulation of possible solutions was indicated in the document which is considered the very first concept of public administration reform in the Czech Republic. This was the **Concept of the Reform of Public Administration of 1999**. Due to the fact that the concept applies to all levels of territorial public administration (local, district and regional), it will be dealt with separately below.

2.1.4 Concept of 1999 and its Consequences

The government's main task after passing the mentioned Constitutional Act No. 347/1997 Coll., which embodied the territorial basis of the present regions, was to present to Parliament bills which would enable its implementation in practice, i.e. above all more specifically embody the role of the new regions within the administrative system. The Concept of Reform of Public Administration of 1999 indicated possible alternatives which the government "only took note of".

This concept directed its attention above all to the organisation of the territorial administration, structure, powers and competence of its institutions. It put forward the following **two stages of reform of territorial public administration**:

1. In the **first stage**, which was described by the concept as **transitional**, the regional level of territorial public administration was to be established and the legal basis for the functioning of the regions created. The transitional stage was to resolve the problems of territorial arrangement of the administrative system, transfer of competence from the district authorities and transfer of their property and their employees.
2. In the **second stage** the activity of the second level of state administration – district authorities – was to be terminated. They were to be abolished at the end of 2002⁷ together with the transfer of their competence to the self-governing bodies, or territorial administrative authorities. The basic **criteria** for the transfer of competence were to become access for citizens, execution of appellant proceedings, efficiency of the performance of public administration and frequency of first-instance decisions.

Among the **negative traits of the then territorial public administration** named by the concept were the following:

- high level of centralisation caused by the insufficient number of levels of public administration which had already from the start of the post-November trend led to the creation of so-called specialised territorial administrative authorities – 'deconcentrated state administrative bodies' (see above),

⁷ In the document "Report on the course of reform of territorial public administration and proposals for measures to ensure its stage II", approved at the session of the government of the Czech Republic on 25 July 2001, the fact is pointed out that "this date (31 December 2002) was fixed by the Parliament of the Czech Republic, even if it was not in the original government Bill on District Authorities."

- imbalance of decentralisation with regard to the practical functioning of lower-level administration when the large number of small municipalities (at the time there were 6,244 municipalities) led to discussions about the qualification of some activities which the municipalities were to perform,
- low education in public administrative matters of public administrative workers and citizens which was displayed by the low-level of understanding of the two existing lines of public administration – self-government and state administration;
- low level of public administrative management related to the relatively low professionalism of public administrative workers which, according to the concept, explicitly caused a tendency toward arrogant authority in both lines of public administration.

The concept proposed **three options of a solution of the territorial organisation of public administration**. Each of these options reckoned with the establishment of the regional level of self-government and also the abolishment of the district authorities (and with the transfer of their powers to other authorities). The individual options differed in their connection / separation of the performance of state administration into municipal and regional level as follows:

OPTION I was characterised in the concept by the institutional **separation of the performance of state administration and self-government**. This separation was to be accompanied by the following traits:

- a) a significant shift of competence from state administration to self-government at regional and municipal level,
- b) a significant shift of competence of state administration from the level of central state administration to the regional level of state administration, and
- c) performance of state administration at the level of small district (ca, 210). According to the first option self-government was to be performed at municipal level. The first option reckoned with the abolishment of 76 district authorities and establishment of ca. 210 administrative districts (so-called small districts).

The proposers included a clear transparency of competences between the self-governing bodies and state administrative bodies among the merits of this option. According to them this option allows the unequivocal fulfilment of the basic position of each of these lines of public administration. This option was also to remove concerns about the significant shift of competences from state administration to self-government because the state retains an instrument for enforcing its state policy in the territory. The democratic effectiveness of this option was, in the words of the proposers of course, strictly subjected to the significant shift of competences from state administration to self-government. According to them this was an option of a small but strong state, an option of big but competent self-government. However with the small shift of competences to self-government the option concealed the danger of statism. If the division of competences was not to be clear enough it could led to the duplication of activity.

OPTION II was the characteristic **institutional connection of the performance of state administration with self-government** at:

- a) regional level,
- b) at the level of municipal authorities authorised with the performance of state administration.

If this option were to be selected, the district authorities would also be abolished. The number of municipalities authorised to perform state administration were either to be maintained at 383 municipalities or their number could also be reduced just like for the first option.

The proposers included suitable organisational preconditions for minimising the danger of duplication of actives between state administration and self-government and the economy of the performance of some administrative processes among the merits of this option. According to the words of the concept, the disadvantage was the fact that it would not create suitable organisational preconditions for fulfilling the different functions of state administration and self-government. The connection of state administration to self-government would also mean limitation for the scope of decentralisation of public

administration. In the event of the transfer of functions of state administration this could also result in the disruption of the interests followed by self-government. In the event of the transfer of the functions of self-government this could result in the risk of problems with the application of rights and implementation of state policy.

OPTION III was associated with the following traits:

a) **separation** of state administration and self-government **at regional level**,

b) **connection** of state administration and self-government **at the level of municipal authorities authorised to perform state administration**. If this option were to be selected it would result in the abolishment of the district authorities. The number of municipalities authorised to perform state administration can either be maintained at 383 municipalities or their number could be reduced as in the previous options. The third option was to be a compromise solution. According to the proposers, the disadvantage of this option was the complexity of the control links between state administration and self-government at various levels of management.

The concept pointed out that “**authorised municipal authorities** were bringing the performance of state administration close to citizens from a territorial point of view. Nevertheless, the possibilities of necessary specialisation and acquiring qualified staff arose based on local pressure even in municipalities where **preconditions for the performance of state administration** had not exist for a long time in terms of the scope of administrative activity. In addition, these small places often do not even have a **natural catchment area** from the wider neighbourhood.” According to the concept also “it is proposed in Option I to entrust the competences hitherto performed only by some municipalities which are not the seat of the authorised municipal authority (building office, registry office) to district authorities in small districts and that detached workplace or consultation points could be established in some municipalities. A smaller part of such competences can be delegated to all municipalities, especially if these significantly affect local identity. In the event of the implementation of Option II and III, the authorised municipal authority would also perform the functions delegated in Option I to the district authority here. In all the options certain **problems arise** associated with a reduction in the size of the **administrative districts compared with the existing districts**. The problem of activity relatively demanding on the specialisation of staff which would not be functional performing in smaller territorial districts, can be dealt with by delegating it to one smaller district authority or one authorised municipal authority even for neighbouring administrative districts. The problem is easier to resolve in Option I, because there is no further expansion of the activities of self-governing authorities on the territory of municipalities in which the relevant self-government is not elected.”

The proposer’s of the concept **recommended adopting the option of the institutional separation at regional level** of state administration and self-government, i.e. Option I. (However the concept proposed postponing the solution of the organisation of self-government and state administration at a lower than regional level for later so that the representatives of the newly elected regional self-governments could contribute to it.) Self-governing regions and a specialised regional authority were to exist, side by side, (organisationally divided) based on the recommended option (which would be similar to the then Slovak solution to the role of the regions). The content of their activity was defined by the concept as follows:

- **The basis for the competence of the regional self-governments was also to be** competences hitherto performed by the central bodies of state administration (e.g. the establishing functions for the budgetary and semi-budgetary organisations). Further important competences which the regional self-governments were to gain was the legislative initiative to the Parliament of the Czech Republic and competences arising from the fundamental principles contained in Chapter Seven of the Constitution of the

Czech Republic (such as the issue of binding decrees for their territorial district, management of property and budgetary funds etc.). Special laws for further competences were to gradually transfer competences to regional councils.

- **State administration at regional level** to be performed by the **regional administrative authority** managed by a government-appointed hejtman (governor). According to the concept, the organisational structure of the regional administrative authority was to be laid down by the law. The concept also assumed that the directors of the regional administrative authority departments could be appointed and dismissed only with the approval of the relevant minister or other leading central state administrative body or based on a tender. It was planned to incorporate the selected deconcentrated bodies into the regional administrative authority and in this context the concept pointed out that the deconcentrated bodies, which would remain independent, could be in a special administrative structure different from the regional division.

The establishment of regional state administrations was considered by the concept to be necessary “in terms of the hitherto absence of a central level in state administration, stopping the tendency towards the deconcentration of state administration along a departmental line and releasing central bodies of state administration from part of the functions of operative management and second-level decision-making in the administrative process.” The concept criticised the subsequent concurrent existence of relatively small regions, large districts and authorised municipal authorities for creating an irrational structure. Decision-making activities were to be delegated to the newly established regions which would mostly not concern civil affairs or would only affect them marginally. These would be tasks in which the region would perform methodical, control or advisory activity with agenda requiring a high level of expertise, low frequency of decision-making or high work input, etc.

The actual solution of the organisation of performance of public administration at regional level, which was embodied by later legislation (and still applies), **however was and is different** than the concept proposed. Act No. 129/2000 Coll. on Regions, which was the result of the then political compromise in the legislative body, did not embody the separation, but connection of state administration and self-government at regional level. Bodies of the **regions**, just as bodies of municipalities, can perform self-government and state administration since the act came into full effect as of the start of 2001.

The abolishment of district authorities was taken from the ideas of the concept. This was executed based on the legislative changes (a wave of legislation) from the period of 2000 – 2002. However for a certain period (from the end of 2002) the district authorities functioned next to the newly established regions. The activity of district authorities was newly regulated by Act No. 147/2000 Coll. In their activity the district authorities still reviewed the decision of municipal bodies and the decisions of the authorised municipal authorities issued in administrative proceedings, supervised the activity of municipal bodies, instructed them to take measures to remove ascertained shortcomings and penalties, provided municipalities with expert help in the performance of state administration, reviewed municipal management, if requested by the municipality and managed and abolished legal entities and organisational units.

Instead of the existing 76 district authorities, 180 – 200 so-called **municipalities with extended competence** were to be established. According to the reform programme documents the following criteria were applied when defining these municipalities:

- from the standpoints of municipal councils in the relevant administrative district,
- from the minimum size of the administrative district of 1,500 inhabitants and

- from the complex geographical criteria (especially the accessibility of the proposed centre, settlement density, commuting distances to work and services and traditional administrative catchment area).

The adopted laws finally created 205 administrative districts of **municipalities with extended competence** (Act No. 314/2002 Coll.) which according to the authors of this part of the reform of public administration in the Czech Republic, represent “*a smaller more balanced size of administrative districts which also meets one of the fundamental objectives of public administrative reform to bring public administration close to citizens.*”⁸ The legislation was also to deal with the so-called **delimitation of employees of district authorities** – 12,984 office posts of the former district authorities were to be transferred to municipalities with extended competence (under Government Decree No. 695/2002) as of 1 January 2003. As regards the regions, performance of state administration was passed from the district authorities to independent and delegated competence. This involved a total of 1,766 office posts.⁹

Municipalities with extended competence began their activities as of 1 January 2003 and represent new types of municipalities which currently perform the broadest scope of state administration for their citizens and citizens of other municipalities. According to the adopted concept, they perform most state administration in the delegated competence of the original district authorities – this particularly concerns agendas of:

- records of inhabitants,
- issue of travel and personal documents,
- driving licences, vehicle registration books,
- records of motor vehicles,
- trade license,
- payment of social benefits,
- social-legal protection of children,
- care for the elderly and disabled,
- water regulations, waste management and environmental protection,
- state forestry, game and fishing administration,
- transport and road management.

The government proceeded to abolish the district level of state administration even if this level was considered by some experts to be “a more stable territorial body” with already eleven years of experience (Villanova, 2001). **The activity of district authorities was terminated, but the district as a territorial unit was preserved under the provision of the Act on the Territorial Division of the State.** District territory has a number of specialised territorial bodies defined by their territorial competence (such as cadastral offices, labour offices, financial authorities, courts, currently there is talk of changing the organisation of the Police of the Czech Republic). District territory is still incorporated into the territorial basis of the created regions.

The status of Prague at the time of the establishment of the Czech Republic was regulated by **Act No. 418/1990 Coll.** The new Act on Prague was not passed until the wave of legislation of 2000 (under number 131). It will be examined in a separate lecture later.

The resulting solution of the organisation of state administration into territory of 13+1 regions of 1997 also brought some problems which still have not been fully resolved. Let us at least mention the following ones which are most discussed in Czech literature:

- One of the important problems that still has not been resolved was caused by the fact that with the effect of Act No. 347/1997 Coll. it was not possible to simultaneously repeal Act

⁸ Report on the procedure and implementation for Q.II. 2002 of the Ministry of the Interior of the Czech Republic.

⁹ Source Obec a Finance 4/2002: Financing the second stage of reform.

No. 36/1960 Coll. on the Territorial Division of the State, which laid down at this time and still validly embodies the so-called 'big regions' (numbering 8). The problem was that its repeal resulted in some state administrative bodies which were active at this time and also courts to lose the territorial basis of their competence that was laid down for the districts and regions established by this act. This led to a situation that **after the adoption of Act No. 347/1997 Coll. there still exists a two-parallel territorial definition of regions** – one works with big regions and its territorial organisation still applies to some state administrative institutions, the other forms the territorial basis for the newly existing 14 higher territorial self-governing units which are general institutions of public administration. The resulting solution need not be clear to citizens. Both regional divisions consider the structure of territory into districts as the basis of their structure. However we must distinguish **institutions which perform public administration and territories within which public administration is performed**. In terms of the regional level of administration, the present fourteen regions and deconcentrates need to be distinguished which are often organised according to different territorial boundaries of 'regions' (according to the territorial division of 1960, see also www.statnisprava.cz).

- Another problem that arose in connection with the territorial definition of the regions and expected EU membership involved the fact that **the regions as they were defined by the relevant Act of 1997, in most cases were 'undersized' by their area and number of inhabitants in relation to the drawn funds awarded for the support of the EU Cohesion Policy**. This problem was legally (and artificially) resolved with the adoption of Act No. 248/2000 Coll. on Support of Regional Development. Under this act **regions of cohesion** were created with regional councils which gained legal subjectivity as of 1 July 2006.
- Other problems arising in connection with the implementation of the regional order are associated with the **question of the optimality of laying down the boundaries of regions in terms of historical development, opinion of citizens and municipalities, in terms of geography and in relation to the existing arrangement of the infrastructure**.

A separate and hitherto very important and not fully resolved topic is the **legislative definition of the status of officials**. This topic will be dealt with in a separate chapter. Let us just sum up here that the legal status of officials in the Czech Republic is still very fragmented and has come into effect only for officials of municipalities and regions – Act No. 312/2002 Coll. forms the basic framework.

Questions and tasks:

- How was territorial administration organised up to 1997? What was the role of individual levels of territorial public administration in this period? How was the regional level of administration addressed at this stage of development
- What was the role of the district authorities? Also use the example of the description of the organisational structure of Kutná Hora District Authority which is available here: <http://www.oku-kh.cz/article.php?sid=2> (available on 10 March 2014).
- What change occurred in the organisation of territorial administration in 1997? What did this change bring?
- What did the 1999 Concept of Reform criticise and recommend?

- Draw a diagram of the present system of public administration.
- In what way are municipalities with an authorised municipal authority and municipality with extended competence specific? Why did these municipality categories appear? Also use the information on the attitude of Rumburk to gaining the status of a municipality with extended competence (see the e-reader).

3. Reform of Central Administration of the Czech Republic

The reform of central administration is important for several reasons. Although the role of the central level of administration will be dealt with in a separate lecture, it must be stressed at this point that the reform of central administration should contribute towards improving the activities (processes and their outputs) which central authorities are to perform to achieve their functions. In state administration the central level is to safeguard the following:

- a) Strategic management which is marked by a framework long-term character and complex approach to organisation as a whole in conditions of uncertainty,
- b) Determining the optimal organisational structure of administration (including standards of the execution of the activities of their elements),
- c) control and coordination of the quality of the functioning of the managed system and the specific role of the central level is to coordinate within the limits of laws (and potentially standardise laws) the performance of self-government,
- d) preparation of good quality legislation.

3.1 Reform of Central Administration in the Period of the Federation

In the first years of post-November statehood it is necessary to distinguish the role of the federal level and republic level of administration. The policy statements of the first two federal governments and republic governments did not anticipate the breakup of the Czechoslovak state which had a federal order since the constitutional changes of 1968. They above all stressed the restoration of democracy and division of state authority, the need to secure elections to the representative system, adoption of new a new federal constitution and a constitution for each republic which during the course of the development of the Czech federation during the period of communism were not adopted. They also stressed the need to newly define the concept of the fundamental human and civil rights, including freedom of religious belief and the repeal of the state approval for spiritual activity, changes to the criminal law (including the abolishment of the death penalty).

One of the basic problems was the **question of the mutual balance of competences between the federal bodies and the equivalent bodies of each republic**. Since the early 1990s the characteristic feature for the trend in this area according to administrative historians was the growing role of each republic and the limitation of the functions of the federation.

At the time of the establishment of the post-November federation and independent Czech Republic the **Competence Act** (Act No. 2/1969 Coll.) was adopted on the basis of reception, which we will mention in a separate lecture. Besides the ministries¹⁰ there were other central

¹⁰ To begin with the following ministries were: Ministry of Finance; Ministry of Agriculture; Ministry of Culture; Ministry of Foreign Affairs (was established as of 1 January 1993 as the successor to the Ministry of International

state administrative bodies which were not headed by a member of the government (above all the Czech Statistical Office, State Administration of Land Surveying and Cadastre, State Mining Administration, Office for Public Information Systems, Administration of State Material Reserves, State Office for Nuclear Safety, Securities Commission and National Security Authority). The system of central administrative bodies of the Czech Republic was supplemented by institutions of a central nature which are, however, subject to one of the ministries (e.g. Czech Environmental Inspectorate, Czech School Inspectorate or Czech Trade Inspection Authority). The central authorities of state administration (and those subject to one of the ministries) could establish their **further territorial workplaces** (the already mentioned deconcentrates and detached workplaces; for example financial authorities operating at district level and their superior financial directorate operating at the level higher territorial administrative units).

In June 1992 elections were held **to the Federal Assembly, CNC and SNC**. Discussions about the reality of the federation after the elections were held at the level of republic representations. Let us recall the words from the preamble of the policy statement of Klaus' government of July 1992: "In Slovakia – democratically, in free elections – a political representation has been enforced which strives for significant and rapid national emancipation of Slovakia and so that Slovak individuality is shaped into its factual sovereignty and international legal subjectivity, i.e. into its own statehood accompanied by all the attributes that are part of it. Today we do not want to and cannot finally anticipate the conclusions that arise from this for the specific forms of the further co-existence of Czechs and Slovaks."¹¹ Mutual relations deteriorated in the autumn with the adoption of the Constitution of the Czech Republic. The Constitution was approved by the Slovak National Council effective as of 1 October 1992 as a 'full' constitution of an independent and sovereign state. The situation finally led to the adoption of **Constitutional Act No. 541/1992 Coll. on the Division of the Property of the Czech and Slovak Federal Republic (CSFR)**. Constitutional Act No. 542/1992 Coll. then laid down that the CSFR is dissolved as of 31 December 1992. It also appointed the successor states of the Czech Republic and Slovak Republic to which the existing competence of the federation was transferred on 1 January 1993. In December the CNC passed the Constitution of the Czech Republic, approved the Reception Bill (Act No. 4/1993 Coll.) and also the treaty between the Czech Republic and Slovak Republic on good neighbourliness, friendly relations and cooperation.¹²

The analysis of the National Training Fund stressed above all the following important changes which took place at central level during the period of the federation that were projected into the objectives of reform in the following period – either continued or were a precondition for further changes:

Relations which was abolished as of 31 December 1992); Ministry of Industry and Trade; Ministry of Labour and Social Affairs; Ministry of Economy; Ministry for the Administration of National Property and its Privatisation; Ministry of Justice; Ministry of State Control (was abolished on 30 June 1993); Ministry of Education, Ministry of Youth and Physical Education; Ministry of the Interior; Ministry of Health; Ministry of Environment; Ministry of Transport; Ministry for Competition and Ministry of Defence.

¹¹ Policy Statement of the Government - Klaus 1992, online, <http://www.vlada.cz/scripts/detail.php?id=26624> (accessed on 12 September 2014).

¹² Some articles that apply to the division of the federation were published after a several year interval which is apparently more expedient for a more objective assessment of the breakup of the original state. The article of Otto Eibl Postoje SPR-RSČ k rozpadu Československa: kritický rok 1992 (z roku 2008) (Attitudes of the Coalition for Republic-Republican Party of Czechoslovakia to the Breakup of Czechoslovakia: Critical Year of 1992 (of 2008)) cogently deals with with some aspects of the breakup and is available in the electronic magazine Rexter on the internet, specifically at: <http://www.rexter.cz/postoje-spr-rsc-k-rozpadu-ceskoslovenska-kriticky-rok-1992/2008/05/01/> (accessed on 12 September 2014).

- Institutional and functional changes were performed in the system of central bodies of state administration which led to the dissolution of administrative bodies associated with the directive administrative order of the national economy. New functions of administration began to be implemented in the structure of central administration associated with privatisation and with the creation of conditions for the functioning of a market economy.
- State administration was engaged in the privatisation of state property and in restitution tasks and was also authorised with supervision over adherence to the rule of competition.
- Far-reaching changes in the economic sphere of administration due to the new tax system came about in the sphere of financial administration whose competence and responsibility for the management of public funds were expanded substantially and increased. A totally new task of state administration, whose implementation is being insufficiently manifested in the dynamics of economic development, was the support of business, especially small and medium enterprise.
- The principal change in the profile of state administration was the state's retreat for the direct management of the economy, abandonment of central planning and economic management, totally incompatible with the market economy. However with the transformation of the economy, the legal and administrative mechanisms were underestimated ensuring transparency and the public control of the privatisation process and protection of the emerging market economy against economic criminality.

3.2 Politics and Instruments of the Reform of Central Administration up to Autumn 2006

Relatively little systematic attention was paid to reform and the modernisation of Czech central state administration for a long time, although it was criticised (not just by the European Commission, OECD or Council of Europe) for the excessive centralisation of decision-making activities, complicated internal organisation and required improving the quality of its personnel. To begin with only structural changes were made in the form of the abolishment or replacement of some ministries and central administrative authorities with others. According to some, it was a major system error to continue merely with the reform of territorial administration on which the first conceptual materials were drawn up in 1993 – *“as if central administration did not require major reform and as if reform of public administration was not a complicated affair”* (Vidláková, 2000, p. 41)

All post-November government policy statements addressed the reform of central administration in the standard manner. Of the conceptual documents, the already mentioned **Concept of Public Administration Reform of 1999** also encompassed the area of central administration. It, just as the analysis of the National Training Fund, spoke of the following problems:

- a) high level of centralisation which caused that the activity of these bodies had an operative character. The structure of ministries and their personnel was adjusted. This was also projected into the inadequate fulfilment of strategic, legislative, methodical and coordination functions.
- b) low level of horizontal coordination of individual entities and departments;
- c) unsubstantiated diversity of organisational structures of individual ministries and central authorities which made interdepartmental communication and horizontal coordination difficult.

The following concept works with requirements for ‘modernisation’ – as follows:

a) **The concept of modernisation of central state administration with special consideration of the systemisation and organisational arrangement of administrative authorities** which were discussed by the government in June 2001 (Resolution No. 619). Unlike the previous concept, the text of the concept of 2001 also noted that

- personnel instability and too much politicisation of central state administration,
- unsatisfactory legislation of central administration (the hitherto constantly amended ‘Competence Act’ – Act No. 2/1969 Coll.);
- the importance of enforcing modern information and communication systems and technology leading to change in the method of performance of public administration and creating the conditions for improving access of public administration to citizens,
- requirements arising from the prepared accession of the Czech Republic to the European Union,
- role of methods of comparison (benchmarking) and method of best practice for the improvement of the present situation

b) plan of changes formulated in Government Decree of March 2004 No. 237 as ‘**Procedure and Main Trends of Reform and Modernisation of Central State Administration Containing Settlement of Sponsorship and Organisational Security**’. This concept divided reform and modernisation of central administration into 5 main trends with a total of 15 specific projects which are listed in Table 2 below. A number of these projects overlap into the present period.

Table 1 – Principal Trends of Reform and Modernisation of Central State Administration

Reform Trend	Project Title	Project Status (based on available information)
<i>Trend A: Rationalisation of processes in central state administration</i>	A.1 Identification of mission (objectives) of central administrative authorities	Was completed.
	A.2 Description and analysis of processes in central administrative authorities	The government at the meeting of April 2005 discussed the material on the procedure and rules for conducting audits in central administrative authorities and proposed postponing the material. Uncoordinated pilot projects of vertical audits within on authority were carried out.
	A.3 Drawing up of rules for functioning so-called agencies for central state administration	The project team decided to extend the time plan. Rules have not yet been approved.
	A.4 Reorganisation of central state administration	There was only partial reorganisation at some ministries, above all based on personnel audits. However this was not general systematically implemented reorganisation.
<i>Trend B: Improvement of management in central state administration</i>	B.1 Effective horizontal communication and support of the creation of national strategies	There were surveys, reports were drawn up which are not available as public information. The project continues in electronized form.

	B.2 Modern managerial techniques in central administrative authorities	There was an analysis of the courses of managerial training at the State Administration Institute. There was a PHARE project and similar objectives are part of the current initiatives.
	B.3 Better coordination of central state administration towards territorial public administration	Similar to B.1.
	B.4 Knowledge management	No public information is available that the project was implemented even in pilot form.
<i>Trend C: Increasing the quality of central state administration</i>	C.1 Introduction and development of quality management in central state administration	Some of the instruments of quality management were introduced only by a handful of ministries (e.g. MRD introduced CAF and partly BSC, CSO implemented EFQM).
	C.2 Reform of regulation in central state administration	Continues under the RIA heading to date.
<i>Trend D: Implementation and improvement of civil service in central administrative authorities</i>	D.1 Implementation of the Civil Service Act	It is unclear (see later lecture on this topic).
<i>Trend E: Rationalisation of financing central state administration</i>	E.1 Development of financial and performance management	Implementation of the pilot project planned for the second half of 2005. There is a lack of publication information about practice.
	E.2 Use of private resources for public investment	Discussed hitherto as part of PPP projects.
	E.3 Unification and deepening of control in central state administration	Outputs are unclear, there is a lack of public information.

3.3 Period from Autumn 2006 and Present Trend of the Modernisation of Czech Public Administration

As of autumn 2006 sponsorship for the coordination of the reform of regulation and reform of central administration was transferred from the Government Office back to the Ministry of the Interior. The transfers were to ensure the unification of sponsorship for public administration. As of September 2006 the functions of the dissolved Ministry of Informatics were also assigned to this Ministry as at 1 June 2007.

An important document which was to meet the function of the strategy of administrative reform in the Czech Republic (at territorial and central level) was the material entitled **‘Effective Public Administration and Friendly Public Services – Implementation of the Smart Administration Strategy in the Period of 2007- 2015’**. This so-called ‘Smart Administration’ was presented in connection with the preparation of the Czech Republic for drawing funds from

the Structural Funds in the programme period of 2007 – 2013. On the basis of this the Integrated Operational Programme was also drawn up which the European Commission approved in December 2007.¹³ The eStat.cz initiative was highly critical of the strategy in its article ‘*Smart Administration – Reform or Just Gilding for European Officials?*’ (2007): “Unfortunately the actual material is only pretence of a concept for redress. More profound study shows that rather than being a need for change the approved material is merely a purpose-built document which is to secure funds for the Czech Republic from the European Union structural funds for public administration. There is a real danger that funds from the structural funds will not be used effectively but almost impractically because the new instruments and institutes will be enforced on already established procedures.”

Although the Implementation of the Smart Administration Strategy document is associated with the former government it can be considered a strategy of the reform of public administration in the Czech Republic which continues at present. As a basis for the systematic view of changes in public administration, it was the ‘public administration hexagon’ selected in the ‘Smart Administration’ strategy whose six angles are the citizen, finance, technology, official, organisation and legislation. The strategic objectives of ‘Smart Administration’ are highly ambitiously defined without the Ministry of the Interior having evaluated them as yet:

- *Improve the quality of the creation and implementation of policies:*
 - Rationalise administrative procedures in order to ensure greater efficiency and transparency, minimise bureaucratic elements inside public administration (organisational re-engineering involves the analysis of existing structures and agendas, and redesigning of competences and functions).
 - Introduce a system of strategic planning in state administration and ensure its continuity in financial management.
- *Improve and simplify the regulatory environment and create an attractive environment for entrepreneurs, domestic and foreign investors:*
 - Conduct an analysis of existing regulations in order to identify and remove superfluous regulation.
 - Reform the legislative process in order to make the creation of regulation transparent, introduce regulation impact assessment.
- *Make the activity of public administrative authorities more effective, reduce the financial demands on the running of administration and secure the transparent performance of public administration:*
 - Introduce a system of quality management and monitoring performance of public administrative authorities.
 - Ensure the adequate use of ICT, create a public administration central registry so it is possible to securely share the data of bodies of public authority and ensure authorised access of citizens to data in these registries.
 - Improve vertical and horizontal communication in public administration, ensure the synergic effect of various levels of public administration.
 - Introduce a uniform system of human resources management in public administration, clearly set motivational elements and responsibility of officials, and enforce a modern training and recruitment policy.
 - Consistently enforce preventive and repressive measures in the fight with corruption.
 - Modernise and restructure tax and customs administration by increasing efficiency in the legislative, organisational, personnel and material area, improving quality

¹³ See European Commission, Development Programmes, Czech Republic, online, http://ec.europa.eu/regional_policy/country/prordn/details_new.cfm?gv_PAY=CZ&gv_reg=ALL&gv_PGM=1025&LAN=7&gv_per=2&gv_defL=7 (accessed on 12 September 2014).

- management and management in tax administrative authorities and strengthening the transparency and openness of the tax and customs administrative authorities
- *Bring public administration close to citizens, ensure their maximum accessibility and quality:*
 - Assert e-Government highlighting secure and simple access to public services via the internet, prepare legislation which will secure the electronization of the process acts in public administration, put paper (hard copy) form with electronic (soft copy) form on an equal footing, enable secure communication between the authorities and the public and optimise the internal process of public administration by using information communication technologies.
 - Build a network of contact points of public administration, universal place for natural persons and legal entities where it will be possible to make all filings from one place to public administrative bodies, acquire all verified data stated in the accessible central registries and records, and acquire information on the course of all proceedings which are held with the given person or on his rights and obligations by bodies of public authority.
 - Introduce the continual monitoring of the quality of public services, including ensuring client satisfaction.
 - Assert the principles of competition in public services while guaranteeing minimum standards.
 - *Improve the quality of the activity of justice:*
 - Introduce a system of electronic justice. Including completion of all related projects resulting in greater efficiency of the work of justice and improving communication of justice with the professional and lay public.

The first step, as part of the implementation of the Strategy, was to compile a Projects Schedule. Projects were to be identified in the schedule which would be recommended for support from the Structural Funds. The strategy document assumed that this schedule would be compiled within three months of the approval of the strategy by the government, i.e. by 11 October. However so far only the partial part has been published (e.g. the **Strategy of the Development of Services for the 'Information Society'** of April 2008, in autumn 2008 the **Strategy of e-Government Implementation in the Territory** was approved).

The Smart Administration Strategy created the **Panel for Regulatory Reform and Effective Public Administration** which became the interdepartmental coordination body for making public administration more effective and improving the quality of regulation. Its chairman is the Minister of the Interior.

The document **Strategic Framework of the Development of Public Administration of the Czech Republic for the Period of 2014 – 2020 which the government approved by its Decree No. 680/2014** published in August is also based on the objectives of Smart administration. **This decree also established the Government Council for Public Administration as the special advisory body for public administration.** It also stipulates that by the end of 2014 the Minister of the Interior should present the Implementation Plans of the Strategic Framework and amendment of the Competence Act. The decree also assumed the assessment of the fulfilment of the framework with a two-year cycle from 31 March 2016. This abolished the already mentioned panel for public administration. The new strategic framework works with three of the following general strategic objectives:

- 1) The modernisation of public administration (via the development of proceedings, standardisation of agendas, expansion of the methods of quality management and introduction of a public administration assessment system)
- 2) The review and optimisation of the performance of public administration in the territory

(through the harmonisation of the administrative division of the state, regulation of the system of public-law agreements and financing delegated to the performance of state administration)

3) Increase of the accessibility and transparency of public administration via eGovernment tools (with emphasis on intelligibility, greater satisfaction and a greater degree of the use of services).

4) Professionalisation and development of human resources in public administration (by ensuring the implementation of the Civil Service Act and development and effective management of human resources). **For more see the text of the Strategic Framework which is available HERE: <http://www.mvcr.cz/clanek/strategicky-ramec-rozvoje.aspx>.**

The national project of the electronization of public administration (e-government) will be examined in a separate lecture later. Among the further current projects and activities which are to implement the objectives in the modernisation of public administration in the Czech Republic, it is possible to state the following:

a) implementation of the methodology for **involving the public in the preparation of government documents**,

b) implementation of the principles of regulatory impact assessment (RIA),

c) methodology for **determining planned costs for the performance of public administration**,

d) support **of the introduction of quality management in public administration**.

The subject 'Administrative Science and Management in Public Administration' devotes more attention to most of these trends.

Questions and tasks:

- Why was the reform of central public administration important after November 1989 and what was its objective?
- Comment on the reform of central administration and its trends. What objectives repeatedly appear in the form of central administration?
- Which document can be considered a present strategy of the reform of public administration? Provide reasons for your answer.
- What are the objectives of the current strategy of public administration reform?
- What is the aim of RIA (use the website ria.vlada.cz for the fundamental characteristics)
- What trends will you find in the policy statement of the present government of the Czech Republic?

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