



***[PUBLIC ADMINISTRATION
REFORM]***

David Špaček

Email: spacekov@email.cz

No: 524

Content:

1. About public administration and its reform in general

1.1 Public administration

1.2 Public administration reform

a) Defining public administration reform

b) The scale and limits of public administration reforms

c) Public administration reforming and international organizations

2. Public administration reform in the Czech Republic

2.1 The starting points and the development of the reform

2.2 Territorial public administration and its reform in Czechoslovakia and the Czech Republic

2.3 Central public administration reform

2.4 Public administration reform and the growth of civil servants' qualification

Goals of the lecture:

This paper will deal especially with the organizational (institutional) level of public administration reform in the Czech Republic to introduce the background of the organizational structure development of the public administration in the Czech Republic.

Before doing so, the most important terms mainly from administrative science are to be introduced.

1. About public administration and its reform in general

public administration and **reform** - both of the terms are interdisciplinary

Public administration = administration of public affairs within a society that is organized in a state,

- a social phenomenon that is linked with the realization of the executive power of the state, including the specific position of the self-government,

- related issue - **power / public power**:

- **power** = capacity to force the certain way of behaving on somebody and in case of violating this command also to enforce such behaving and eventually to punish such violation of the command

- **public power** - the power that is in hands of the so called **subjects of the public power** - primary, in disposition of the **state**; secondly, in disposition of **subjects that are approbated by the state**;

→ **public power = state power + residual public power**

PUBLIC POWER

State power - exercised by the specific apparatus - "state mechanism"

Residual public power - by " non-state subjects" approved by the state

Sometimes the residual public power is defined as the "decentralized state power"

The term public administration has also to be distinguished from the term private administration.

Administration in general is a management of society.

- a) **Public administration** as the administration of public affairs is exercised in the name of the so called public interest as a duty prescribed by law, because of the public law status of the public administration authorities.
- b) **Private administration** as the administration of private affairs is exercised in the name of private interest by individuals that pursue their own goals on the base of their own will. Such meaning can be related to public administration only in case it is used for the territorial unit (e.g. state interest, regional interest, municipal interest) not in relation to an individual (in this case it is **corruption**).

Organizational (or Institutional) and Functional (or Material) Definition of Public Administration

a) **organizational definition of PA - public administration = public administration authorities**

- *state authorities* and

- *non-state authorities approbated by the state* - "**public law corporations**" and **individuals** (however only in the name of public interest and it must be approved by law)

b) **functional (or material) way - public administration = a specific activity of public administration authorities** = the exercise of public administration as an application of law and the decretory activity of public administration authorities.

While speaking about the public administration in the meaning of the administration of public affairs within the territory of a state in the name of public interest, it is **important to differentiate the state administration and the self-government**. This differentiation is related mainly to the mentioned division of public power and the organizational as well as functional definition of public administration.

PUBLIC ADMINISTRATION

State administration

Self-government

State administration is a specific kind of the management of a society that is exercised in the name of state. It is a one form of activities of the state and is extrapolated from the essence, status and goals of the state. It is a form of activity of the state related mainly to the executive part of the state power tripartite.

Self-government

- is the public administration that is **exercised by public law subjects other than the state ("public law corporations")**.

- includes the area of public administration that is **approved by law to specific public law corporations to which this area of public administration is directly linked**.

- **is derived from the relatively autonomous** (relatively because of the financial dependence on the state budget, the degree of centralization of public administration etc.) **status of public law corporations**.

- is also a **specific kind of the management of a society**,

- is **exercised in the name of self-governmental public law corporation** ("decentralized state power").

- realizes the administration of public affairs side by side with the state administration .

- is a part of public administration that is specified by its focusing on itself (related to its relative autonomy)

Roots of the modern self-government can be found in the times of medieval cities self-government and medieval guilds.

Public administration reform definition:

Public administration is considered to be **the most dynamic part of the modern state** - the word "reform" is inherited feature of public administration;

it sources also from the character of public administration itself:

PA - administration of public affairs with certain functions - these functions are **directly related to functions of the state** (these functions differ theory by theory - from orthodox liberals to marxist socialists)

The development of public administration reforms reflects **the values that are accepted by the society during the history**. These values also **influence the rate between centralization and decentralization of public administration**.

It is complicated to agree on a single definition of administrative reform.
Opinions are various - two extremes:

Generally, the word reform means to make something better, to improve something or to remove the faults of something, in our case - the change of public administration.

- a) Some introduces the reform of public administration as a **complex rebuilding of public administration,**
- b) others consider the reform to be also **just a particular change within public administration or just a modernizing or improving of public administration procedures.**

Aspects of PA reforms:

Public administration reform has also many aspects that can be (and often are) interlinked, e. g.

- political,
- legal,
- institutional,
- technical (IT utilization - e-government, e-democracy etc.)
- personnel,
- financial,
- social,
- sociological,
- psychological ... and many more.

(because of the inter-disciplinarity of this issue)

[Stages of PA reform]

It is also important to distinguish the following stages of public administration reform

- **theoretical and**
- **practical stage of the reform,**

or

- **the stage of preparation and**
- **the stage of realization of the reform.**

In both cases, they are mutually linked and influence the final success in reaching (mainly politically) stipulated aims.

[The scale of PA reforms]

- very heterogenous in the world - three groups of states whose public administration reforms can have very similar features: The comparative public administration speaks about:

- a) **developed (especially Western) countries,**
- b) **Central and Eastern European (CEE) countries that were a part of the socialist block,**
- c) **development countries of Africa, South America and Asia.**

This paper will focus on the case study from b). However, **we can compare in general the first two groups and we can find especially the following different:**

- **WCs have started reforming in the modern way mostly in the 1960's**, states in b) mainly since 1990's - This disproportion is expressed also in the character and the level of development of public administration reforms;

- **WCs do not have to face the complex reform of public administration** and the strategies of their administrative reforms have or had been realized in different economic and political environment;
- **The postcommunist countries try to cope with their recent totalitarian regime characteristics** in order to make themselves more democratic, to decentralize and deconcentrate their public administration that was based mostly on the state administration and on the minimum of self-government.
- **The CEE countries try to catch up with their western neighbours**, Their reforms can be inproportionately fast (especially changes in legislation) → many problems and increase the costs of the administrative reform (because of amendments to legislation, adequate education of civil servants etc.).
- **plenty of problems must not be solved in Western countries** - to increase the participation of public, to focus their public administration to citizens, to make their public administration serve the public, to eliminate corrupcy etc. The **democratic deficit** still exists in the Western world.

Public administration reforming and international organizations

- can provide the countries with **guide-like information** (especially the “lessons learned information” or “best practice” information) and with
- **financial resources**
- **a push to reform - many intentions to do so**
 - e.g. economic purposes, ensuring the peace etc.
- "a value framework" - e.g. **SIGMA's „European principles for Public Administration“**
 - **„European Administrative Space“** (EAS). The EAS includes the following set of common standards for action within public administration which are defined by law and enforced in practice through procedures and accountability mechanism:
(the practice of these principles is arguable even in the EU Member States. Modern public administration reform should not also violate the spirit of these principles.)

SIGMA's „European principles for Public Administration“

- a) **reliability and predictability (legal certainty)** - based especially on the rule of law mechanism, timeliness in the action of public administration, professionalism and professional integrity in the civil service (that especially relies upon the notions of impartiality and professional independence);
- b) **openness and transparency** - this means that the PA is available for the outside world and can be seen through for the purpose of scrutiny and supervision;
- c) **accountability** - it means that one person or authority has to explain and justify its actions to another.
- d) **efficiency and effectiveness** - Efficiency is characteristically a managerial value consisting in essence of maintaining a good ratio between resources employed and results attained. Effectiveness basically consists of ensuring that the performance of public administration is successful in achieving the goals and solving the problems set for it by law.

Also the importance of

European Charter of Local Self-Government (The Czech Republic signed the European Charter of Local Self-Government on 28 May 1998, and ratified it on 7 May 1999)

and

European Charter of Regional Self-Government (the final version of this charter has not been passed yet)

of the **Council of Europe** should be stressed here.

2. Public administration reform in the Czech Republic

February 1948 - November 1989

the Czechoslovak Republic and its public administration had been developing in **the spirit of communism and socialism**.

In 1968, **the unitary state was replaced by the federation of Czechoslovak socialist republic with the central public administration on the federal and republic level.**

The lower level of the state administration was institutionally ensured by the **regional, district and local “national committees”**.

This system of public administration was characterized by **centralization** and was governed by the **influence of the communist party**. **The separation of the civil service and the political structures did not exist. Self-government authorities did not exist in practice as well.**

After November 1989 (the “velvet revolution”) the change of regime has come.

Transformation of the society had to be accompanied by the reform of public administration or better to say by the reform of the state administration (because of the above mentioned facts)

- **Renaissance and enhancement of the self-government as well as decentralization and deconcentration of accountabilities, financial flows etc. from the central level** have become major goals.
- **The realization of the principle of subsidiarity** in the meaning of the European Charter of Local Self-Government :
„Public responsibilities shall generally be exercised, in preference, by those authorities which are closest to the citizen. Allocation of responsibility to another authority should weigh up the extent and nature of the task and requirements of efficiency and economy.“
- inspiration in experienced countries
- enhance the prestige of public administration in the eyes of public, elimination of corruption, creation of public administration that should serve citizens, the establishment of an effective administrative control mechanism

2.2 Territorial public administration and its reform in Czechoslovakia and the Czech Republic

1990 - 1992

during the year 1990, the system of the “national committees” was abolished → Their activity was supposed to be exercised by other subjects that should have been established on the fundamentals of modern constitutional democratic principles that were provided by individual constitutional and other acts (new Czechoslovak constitution in the form of a single constitutional document was not passed).

New legislation did not solve the question about the second level of the self-government (former - 8 regions). Since the elections of November 1990 the self-government had institutionally existed only on the lowest (municipal) level.

The second level of the self-government and its form had been a matter of discussion for a long time. At the time of the Czechoslovak federacy, four alternatives were proposed - territorial, regional, combined and federal. The government of that time accepted the territorial alternative and proposed the steps for its realization. However, they had not been discussed by the parliament because of the solving of upcoming separation of the federation in 1992.

The state administration was exercised by the municipal level as well (*the so-called connected model of public administration*) and also by the level of district authorities.

Besides these state administration authorities other offices and state authorities (the so-called “**deconcentrates**”) had existed at the place of abolished regional level as well as in districts.

These institutions were **established by subjects of the state administration** (ministries, other central authorities etc.) in order to fulfil their tasks on lower levels.

In some cases these “deconcentrated” authorities founded **their own offices**. → Their creation had often no strategy and **caused the chaotic situation in the system of public administration** (or better say state administration) of Czechoslovakia and **increased the number of public administration employees**.

- 1992 - 1996

The political programme of new government from June 1992 announced the attempts to realize decentralization, “deconcentration” and the principle of subsidiarity.

However, the practice had not changed much, in spite the fact, that in its article 99, the **new constitution of the Czech Republic from 1993** (Act 1/1993) presupposed the administrative system consisted of municipalities as basic local self-governmental units and also of “regions or lands” as higher self-governmental units. **This provision did not solve the mentioned discussion on the form of the second self-governmental level.** It has just constitutionally established the second self-governmental level. Its form depended on politicians and their consensus.

There only existed the political agreement on the importance and the need to reform the regional self-government. The disputed questions on the number of higher self-government units should have been solved too.

The mentioned **constitutional deficit of the factual non-existence of the second level of self-government** was criticized by the European Commission still in 1997 while annually evaluating the candidates for the EU membership.

- 1996 - 1998

The insufficient constitutional practice has been solved by the **constitutional act 347/1997 that has established 14 regions as the second level of territorial self-government** in our country.

However, their activity should be the matter of future legislation (from 2000) that would realize the practice of regions = regions did not exist in practice (only in legal way)

the County of Europe in 2000

In 2000, in the Council of Europe's report on the local democracy in the Czech Republic, the following was mentioned among the problems of local democracy: *"Insufficient local autonomy, the existence of districts and the lack of real intermediate level of local self-government."* and *"The simultaneous existence of districts, outlying components of central administration and a large number of municipalities (6 244), most of them small, highlights undoubted centralisation in Czech administrative system. The insufficiency of municipal autonomy is not offset by the existence of any local or regional authority that might have developed an intermediate role. All there is the district assembly, but that body is of only minor importance and in addition has limited budget powers. The existence of district-like cities with their own statutes must be seen as a centralising device rather than a decentralisation measure, for the district-cities have the status of deconcentrated state organs."*

1998 till present

The submission of new legislation (mentioned because of explanatory reasons above) that would fulfil the constitutional provisions and would enable the realization of the constitutionally presupposed public administration reform was the main initial task of this government.

The document “*Conception of public administration reform*” from 1999 has become a political way-out of the solution - two stages of the regional public administration reform:

- a) during the first stage, the regional level of public administration should have been created in practice;
- b) during the second stage, the activity of the second level of the state administration - the districts - should have been finished till 31. 12. 2002 (although the mentioned intentions of the government of 1994 were different). **Their tasks should have been transferred both to the regions and municipalities** while securing the criteria of the accessibility to public administration, the effectiveness of the public administration activities etc.

The government decided to abolish the district level (in practice the second level) of the state administration, although some experts considered them to be the most stable subjects with eleven years' experience.

The number of 76 of these district authorities should have been replaced by 180 - 200 of the so-called **"municipalities with enlarged sphere of activity"**.

The government also stated **the criteria that led it to such decision:**

- the statements of the municipal self-governmental assemblies,
- the minimum extent of the administrative unit was designated to 15000 inhabitants,
- the complex of geographical criteria - especially the accessibility of the proposed administrative centre, the density, the commuting to work and for services, traditional administrative centre etc.

In order to realize the mentioned conception, a huge amount of legislation on the organization of public administration and its competence, property, financial sources etc. was passed in 2000. The following acts are the most important:

- act 128/2000 (on the municipalities),
- act 129/2000 (on regions: **this act has established the practice of regions in the Czech republic; it has been enacted that it should come in force - with exceptions related to the exercise of state administration (that have come in force since 1. 1. 2001) - since the date of elections to regional assemblies - 12. 11. 2000**),
- act 130/2000 (on the elections to the regional assemblies), act 147/2000 (on the district authorities),
- act 131/2000 (on the capital Prague; our capital is simultaneously a municipality and a region),
- act 218/200 (on budgetary rules).

Many of the bills proposals have been passed by the parliament and have come in force also since the beginning of 2003 or earlier during the 2002. This **new legislation should solve the problems of**

- **the regional public administration system,**
- **the transfer of competences from the district authorities,**
- **the transfer of the property of district authorities,**
- **the transfer of employees of the district authorities,**
- **the logistic activities related to the abolishing of the district authorities etc.**

These acts have also created a legal framework for the activity of **206** “**municipalities with the enlarged sphere of activity**” (especially the act 314/2002 and only in relation to the amount of state administration exercised by the certain municipality) that should bring the public administration in the Czech Republic closer to its citizens.

In reality, in the Czech Republic, more kinds of municipalities have been established since 1. 1. 2003 - they differ by the extent of state administration they exercise and are divided into the following three categories:

- a) **municipalities with ordinary municipality bodies** (municipality body is one of bodies of a municipality that should exercise the state administration deconcentrated from the central level of state administration);
- b) **municipalities with "commissioned" municipal bodies** (they also serve citizens as a registry office, construction administration offices etc.);
- c) **municipalities with enlarged sphere of activity** (this category of municipalities has been founded in relation to the abolishment of mentioned district authorities and the transfer of their competencies to municipal level - e.g. primary education etc.)

[categories b) and c) are specified in act 314/2002, that has come in force since 1. 1. 2003] (**today we have 6274 municipalities**).

The act on municipalities also distinguishes three categories of municipalities: **municipalities, towns, "statutory" towns.**

The mentioned steps of public administration reform have also determined the tasks for **the government of June 2002**. According to its political program, the new Czech government has bound itself **to finish the public administration reform**. It also understands **public administration as a service for citizens**.

2.3 Central public administration reform

not enough systematic attention has been paid to the reforming of central authorities for a long time since 1990s. This fact had been criticized many times by the European Commission, OECD, the Council of Europe etc.

Reforms of the territorial and central public administration were understood to be separated. Some theorists claim they should be considered to be interlinked: *“the continuation only in the territorial public administration reform was the fundamental system mistake... as if the central administration had not required a cardinal reform and as if the public administration reform had not been the complex issue.”*

The important change for the modernization of the central public administration has been made in 2001 when the government accepted the resolution no. 619 that dealt with the conception of central state administration modernization with the special emphasize on the systematization and organizational structures of administrative authorities. PRIORITIES:

- consolidation of the central state administration system,
- strengthening of conceptual, coordinating and control functions of ministries,
- improving the management of ministries and other central administrative authorities.

the PHARE projects (with twinning etc.) are utilized to fulfil the mentioned tasks. These projects tries to support

- the improving of the communication between the public administration and citizens,
- the creation of the public administration educational system and
- the preparation of some conceptual documents.

The main goal of these projects is to contribute to the creation of conditions for implementing and enforcing the *acquis communautaire*.

New government of June 2002 has set among its priorities also **the start of the central state administration modernization** that would

- make public administration activities more efficient and effective,
- improve the horizontal coordination of public administration activities

while larger utilization of the modern technologies (e-public administration) and modern managerial methods (inspiration in the NPM).

2.4 Public administration reform and the growth of civil servants' qualification

The Czech Republic had been at least since 1997 annually criticized also for the absence of the legislation on civil servants status and for the non-existence of civil service educational system.

In 2001, the Czech Republic had been still criticized by the European Commission for the mentioned deficiencies. Rights and duties of civil servants had been enacted in general labour law, especially in the Labour law code.

The **education** of civil servants had been **managed ad hoc** by many central and local public administration institutions without any coordination. **No central authority for coordination of the education** of public administration employees had been established. Generally speaking, in the Czech Republic, there had been no coordinated systematic “human resources” management within public administration.

The passing of complex legislation has a long history and was more or less accomplished in 2002 by the **act no. 218/2002 on a civil service of state authorities’ employees and about rewarding these employees and other employees of administrative authorities and act no. 312/2002 on officials of self government and amendments of other acts.**

These acts **emphasize the political independence of the officials of the state administration and self-government and the professionalism of these civil servants and try to define their legal status.**

The mentioned act no. 218/2002 has established the **Institute of State administration.** This institution becomes a central authority for the education of the state administration employees as well as of employees of other administrative authorities.

The new government of 2002 has bound itself to implement this new legislation.

In autumn of 2002 (when it published the annual regular report on the Czech Republic) **the European Commission recommended the Czech Republic to implement the mentioned civil service legislation as soon as possible in order to facilitate the enter of our country to the European Union.** This report of 2002 also recommended to increase the efforts in fighting the corruption.