

Public administration in the Czech Republic

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EXAMINATION - CONDITIONS

- **Active participation** in lectures and seminars (taking part in discussion, preparation based on reading information available in www.is.muni.cz).
- **Semester paper** (6 – 8 pages). The chosen *topic must be sent till 31/3/2020* by e-mail to guarantor doc. Skulová (it can be changed later or specified). The object of the e-mail should be: “S0C003 Public administration in the Czech Republic – SURNAME – Topic”.
- **Written test**. The test is based on true/false questions and multiple-choice questions.
- **Discussion** aimed at semester paper.

Term Administration

- Activity aimed to care for certain things.
- It pursues an activity that is targeted, that **follows an aim** whether its own or set by another entity, either of its own or as a duty.
- It **disposes of the means** necessary to achieve the set aim.
- Purposeful human activity aiming **to reach purposes**, targets.

Term Management ≠ Term Administration

Management a purposeful activity leading to influence the managed entity in conformity with the set aim

Administration

- ❖ administration in general is management of society
- ❖ specialized management
- ❖ shows sign of stability, institutionalisation and regulation
- ❖ applied in stabilized systems and normatively determined relations only

Public And Private Administration

- *Interest theory*
- *Power theory*
- *Organic Theory*

Public Administration

- social phenomenon
- public administration as the administration of **public affairs** is administration in **public interest** and is exercised as **a duty** set by law
- public administration has at its disposal **power** – an ability to force a certain way of behaving on somebody
- self-government sets its own targets
- public administration **as a service**
- legal element
- purposeful element
- realization of executive power

Public administration

Organizational (or institutional) way – set of public administration bodies

Functional (or material) way – specific activity of public administration bodies

Organizational Principles

Important terms

□ *Powers*

□ *Competence*

➤ **Decentralization**

➤ **Deconcentration**

▪ Territorial principle

▪ Departmental principle

Organizational Principles

- Monocratic x collegial principle
- ❖ Appointing x electoral system

Public administration in the Czech Republic

Central state administration bodies

- ❖ *Ministries and other central state administration bodies*
- ❖ *Czech Republic Government*

Territorial deconcentrated – specialized state administration bodies

Territorial administration with general competence

- ❖ *Regions and communities*
- Independent competence (*self-governing*)
- Delegated competence

Interest and professional self-government

Administrative law

- **Independent branch of law (a branch of public law)**
- Legal basis for existence and performance of public administration
- Multiplicity and plurality of legal regulations
- **Subject of the regulation** – relations that are established within the performance of public administration
- **Regulation method** – „administrative law“ (power aspect of public administration)
- **Administrative law** – 1. **substantial**, 2. **procedural**, 3. **competence and organizational** (among these administrative offences)

Administrative sciences

Administrative sciences are aimed at public administration as such.

Administrative law is aimed at legal regulation of public administration.

Public officials

What is the administrative Personnel?

General perspective

Public employees X Administrative personnel

- **Public employee** is everyone paid from public budgets,
- **Administrative personnel** is also paid from public budget, but ensures professional, public tasks in employment relationship to some executor of public administration.
- **Administrative personnel** is specific group of employees, with specific assumptions, needs and regulation.

What is the administrative Personnel?

General perspective

Administrative personnel does not consist of only those officials who are employed by state.

It is usual to divide public officials on those who

- exercise **civil service** and those who,
- exercise **rest of public service**.

WHAT IS THE ADMINISTRATIVE PERSONNEL'S IMPORTANCE?

„Officials have to realize that their main task is to represent community, protect its dignity, maintain law, make decisions and keep on mind, that all was entrusted to their conscious.“ (M. T. Cicero)

Bureaucracy as a special profession was developed in 18th century. Max Weber pointed out, that it's a necessary for **obtaining „rule of law.“**

Concept of administrative personnel changed from conception based on privileged status of officials to open conception based on **providing the best services to public.**

ADMINISTRATIVE PERSONNEL'S IMPORTANCE

REALIZATION OF PUBLIC ADMINISTRATION

Public administration, through its employees, ensures realization of executing power. Realization of public administration is represented by this chain:

a) Objectives of public administration

b) Tasks of public administration

c) Functions of public administration

d) Methods of public administration

e) Forms of public administrations

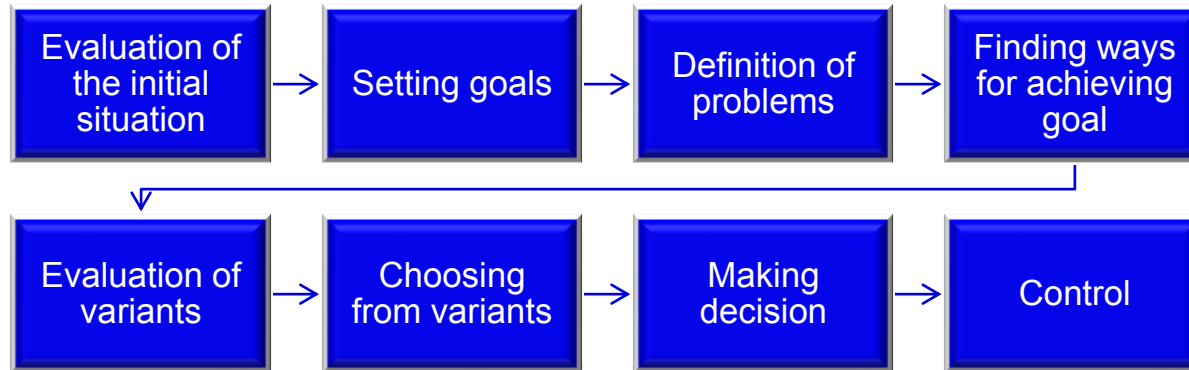


ADMINISTRATIVE PERSONNEL'S IMPORTANCE

DECISION-MAKING PROCESSES

Decision-making process is the heart of public administration activities and it highly depends on rationality of administrative personnel.

It's nonrandom selection of at least two different variants, consisting of:



WHAT IS THE ADMINISTRATIVE PERSONNEL'S IMPORTANCE?

- Public officials stand on difficult position between politic's and public interests. This controversy leads to so called „**spoil system**“, where politicians try to capture all important administrative bodies.
- Importance of administrative personnel is also in exercising public administration with **keeping loyalty and public interest at the same time**.

CAREER SYSTEM

Labor law relationships between public administration and their employers have public law nature.

Signs of career system

- Law granted permanent service relationship
- Granted service and salary advancement
- Impossibility of service contract termination

CAREER SYSTEM

Advantages of career system:

Professional, loyal and experienced administrative personnel

Protection from politicalization of public administration

Disadvantages of career system:

Excessive formalism of public administration

Excessive certitude of administrative personnel

Egalitarianism of administrative personnel

ORIGIN OF PUBLIC OFFICIALS' STATUS USA

In USA, with different historical experience, was no need to get over the patrimonial relationship between monarch and public officials.

Vice versa, there was rather attempt to obtain liberty and that meant prevent wanton bureaucracy.

This development led to so called **merit system**, which is typical for its similarity with human resources management in private sector

MERIT SYSTEM

Merit system is based on catalog of service positions with its detailed description. Free administrative positions could be filled by people from both private and public sector.

Advantages of merit system:

- Flexibility and adaptability
- Less tendency to egalitarianism
- Obtaining experience, competition, efficiency of private sector

Disadvantages of merit system:

- Less emphasis ethics
- Harder accomplishment of political neutrality

PRESENT PUBLIC SERVICE

Neither the career or merit system doesn't exist in these days in their original form. They have been influenced by each other.

Rationality and legitimacy of modern public administration is based on professional and impartial service to public.

Max Weber saw public administration as work performed by impartial professional personnel, according to related rules in centralized hierarchical system.

Duties of public officials

Duties of public officials mostly responds to main principles of public administration. Concrete duties are expressed by national's legislations.

For European countries there are relevant principles expressed in:
Recommendation of Committee of Ministers of Council of Europe, CM/Rec.(2007)7, on good administration

For public officials of European unions' bodies, there are principles and duties in:

Public service principles for the EU civil service
The European Code of Good Administrative Behaviour

Duties of public officials

Administrative sciences deals with these general duties of public officials:

Lawfulness. Requires knowledge of the law.

Obedience. Response to organizational structure. Official is obligated by orders from his superior.

Impeccability. Official is obligated to keep his impeccability.

Impartiality. Premise that official is neutral and isn't involved in case or biased.

Loyalty. Official can't questions public administration.

Seriousness. That means seriousness of official's professional and private life.

Confidentiality. Official can't disseminate information which he knows from his service.

Prohibition on receiving gifts. Purpose of this duty is to avoid corruption.

Rights of public officials

Administrative science deals with these general rights of public officials:

- Right on salary
- Right on service succession
- Right on official titles

Disadvantages of public service should be compensated by:

- Longer vacation
- Free uniform
- Certainty of service progress
- Free fare
- Quality of social and personal care

Responsibility of public officials

General labour-law responsibility.

In connection with public administration, there are **specific kinds** of responsibility:

- **for illegal decision and incorrect conduct** (compensation for damages caused to citizens, in limited extent).
- specific kind of public law responsibility is **disciplinary responsibility**.

Responsibility of public officials

Culpable violation of service discipline, is a disciplinary offense, which could be penalized by:

- ***Written reprimand***
- ***Pay cut***
- ***Withdrawal from superior position***
- ***Discharge from public service***

Disciplinary offences should be proceeded by disciplinary commissions (inside public administration).

Ethics in Public Administration

What Do „Ethics“ Mean?

Branch of philosophy (discipline)

Normative social system based on the rules of morality which is different (but not isolated) from the legal normative system

Such system is exercised through the power of public (general) opinion

Sanctions mostly of moral character (condemnation, exclusion)

Key terms:

- *Right and correct (just) behavior v. unjust (unfair) behaviour*

**GOLDEN RULE OF MORALE
(ETHICS)**

*One should not treat others in ways
that one would not like to be
treated*

Ethics in PA - significance

- Development of public services, increasing allocation of public funds
- Large scope of power of administrative authorities and individual officers when deciding on public funds (budgets, European funds, procurement)
- Significant discretionary powers when deciding on citizens' access to public funds and on rights and duties
- Administering personal data, business details, and other information

- Rise of ethics in PA – 70's in the Western World, new millennium in post-communist countries [still developing]
- Western World – regulation of ethics as a supplement to legal regulation; fulfillment of ethical rules is assessed regularly

Ethics in PA in Context and Significance of Ethics for the society

Corruption is the very opposite of ethical behavior

Types of behavior: *unethical x illegal x criminal*

Are those totally different fields?

Are they overlapping?

Ethical [right, correct and legal] PA is the prerequisite for the social prosperity [UN, OECD]

Unethical behavior/corruption has the opposite effect

Normative Ethics v. Professional Ethics

Normative

- Set of rules of correct conduct
- Deals with what is supposed to be, what is right and just
- Deals with moral norms, codes, principles and searches for their grounds
- More theoretical

Professional

- Does not ask why specific conduct is right but looks for the answer which conduct is right (ethical)
- Does not deal with the motivation of the officer but analyzes if specific conduct is ethical
- Aims to create values, norms and principles which form guidelines for the conduct
- More practical

Ethics of PA

The term

1. Desired value or condition, as well as all the means that leads the PA conduct towards such desired value
2. Operating toward elimination of PA misconduct, support of desired conduct

Context and fundamentals

Internationally: integrity of an officer (personal, moral) – „honesty“

Common cultural foundation and traditions of ethical conduct – modern conception of democracy, rule of law, universality of human rights

Principle of PA as a service to society and its members

Ethics and PA in EU

EU, European Commission

The European **Code of Good Administrative Behavior** (2000)

European Anti-Fraud Office – **OLAF** (investigates fraud against the EU budget, corruption and serious misconduct within the European institutions)

Council of Europe

Recommendation No. R (2000) 6 of the Committee of Ministers to member states on the status of public officials in Europe

Recommendation No. R (2000) 10 of the Committee of Ministers to member states on codes of conduct for public officials

Group of States against Corruption (**GRECO**)

Thank you for your attention.