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Eastern Europe in Transition, the Case of Hungary

*The Readjustment of Public Administration,¹
Programs and Aspects of the Transformation
of Public Administration in Hungary between 1990–2002*

Abstract. The result of circumspect and considerate preliminary work, by 1990, the system of public administration characteristic of bourgeois, democratic and constitutional states was established in Hungary. The transformation of public administration is still far from complete, since fundamental reforms encompassing both structural and functional measures, and also the unified regulation of public sector human resources, urgently need to be effectuated. The continuous and rapid transformation exhausted public administration after a period and the reform programs with low efficiency discredited the ideas promoting the necessity of reforms themselves. Public administration weary of the reforms itself became gradually not supportive of, but passively resistant to the cause of the reforms, which merely reinforced the philosophy of NPM based on a neoliberal conception of the state implying that public administration cannot be reformed from within. In certain cases Hungary was under an excessive illusion concerning both NPM and EAS, it was more responsive to them than the other countries concerned. Today, however, as a party both to the European Union and EAS, Hungary with its specific experiences can contribute to the development of European public administration.

Currently running complex program of the development of public administration alludes to a more considerate and subtle approach, which related to the consideration of international experiences sets forth that “any solution originating abroad or in the market may be applied exclusively with proper criticism and the examination of its effects.”

Keywords: transformation of public administration, European public administration, European Administrative Space, the reforms of public administration, regulation of public sector human resources

1. The First Phase

In a summary of the above-mentioned facts, we must establish that despite undeniable achievements, an unbalanced system evolved in Hungarian public administration by 1992, in which a complex and reformed, co-ordinately functioning system of local government was accompanied by an under-regulated, hierarchically organised system of state administration, the latter of which, furthermore, developed in an unsystematic manner and overgrew in some areas. By the mid-session of the first post-transformation government, it became evident that the efficient public administration indispensable for a well-functioning constitutional state required that both major sub-divisions of public administration, in order that they can provide democratic and professional services for citizens, should develop comparatively and coherently, since neither division can function self-sufficiently. In the interest of the accomplishment of this purpose, Government adopted the complex program

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¹ See Lamm, V. (ed.): *Transformation in Hungarian Law*. Budapest, 2007.

of the development of public administration under Decree no. 1026 of 1992 (V. 12.), the complete implementation of which, however, was unfeasible by reason of the expiration of the government session.

1.1. The subsequent Government attached great importance to the modernisation of public administration, for the realisation of which, it appointed a Government Commissioner who was put in charge of the elaboration of the medium-range reform program of modernisation within the framework of the “Bokros Scheme”, which radically limited involvement on the part of the state. The elaborated program adopted under *Government Decree no. 1100 of 1996 (X. 2.)* was forwarded to all organs of public administration as a special edition and it was published in professional / scientific journals as well. The before-mentioned law, however, did not include the program in its normative part specifying the due assignments for 1996, whereas, in its Addendum, it provided the main guidelines of medium-range reform duties under 21 points, which were specially scheduled for the government session under Government Decree no. 2039 of 1997 (II. 12.).

1.2. The objectives of the medium-range reform were formulated under *Government Decree no. 1100 of 1996 (X. 2.)*. The fundamental objective of the main guidelines specified under the Addendum was to promote

A) the consolidation of the framework and of the basic institutions of the new system of public administration established in 1990, which necessitated

- a) the recodification of the rules of administrative procedures,
- b) the reform of the system of regional organs of state administration,
- c) the elaboration of the legality supervision mechanism of local governments, etc.

These constitute elements of the stabilisation of the structure for an inefficiently and professionally functioning public administration, so that it can provide high-quality services.

B) streamlining and modernising the functioning of public administration via

- a) increasing efficiency
- b) improvement of the quality of work,
- c) elaboration of the servicing character of functioning.

The stabilisation of the structure and the modernisation of functioning were designed to promote the establishment of a properly supervised system, which proceeds more lawfully and is capable of the enforcement of its administrative decisions by adequate sanctions.

C) the establishment of the prerequisites of

a) contingent intervention by leading officials in cases of manifestations of bureaucracy,

b) the employment of a dependable and professional personnel, which, as to its number, is proportionate with its duties and utilises state and local government monetary assets (public funds) austerely.

The attainment of these objectives was deemed adequate to form the basis of the upgraded system of public administration.

1.3. Government that entered office in 1998 consistently affirmed that the preparation of schedules for the promotion of the purposeful development of public administration was necessary, consequently, it formulated the main duties for the years 1999–2000 under *Government Decree no. 1052 of 1999 (V. 2.)* and under *Government Decree no. 1057 of 2001 (VI. 21.)* for the years 2001–2002. Whilst, new priorities, duties and measures were also stipulated under the Commentaries of the latter laws, the projected, multifaceted concrete measures were in the main encompassed by the main guidelines formerly specified under the *Addendum of Government Decree no. 1100 of 1996 (X. 2.)*.

1.3.1. The public administrative strategy of Government for the years 1999–2000 was defined by the priorities included in the Government Program, by the experiences of public administration since the political transformation and by the obligations deriving from the envisaged accession to the EU. The relevant prospective and concrete duties for the years 1999–2000 were formulated under *Government Decree no. 1052 of 1999 (V. 21.)* (hereinafter: GD), according to which, the strategic objectives of the development of public administration were as follows:

- a) Reinforcement of the servicing character of state and local administrative organs,
- b) Establishment of a citizen-friendly, efficient and transparent system of civil service,
- c) Establishment of an achievement-oriented, firm and politically-neutral system of civil service based on professional expertise,
- d) Establishment of the basic conditions of a system of public administration, which is more apt to enforce the points of views and interests of Government, and,
- e) Guaranteeing constitutional, transparent, expeditious and professional public administrative procedures.

As the above indicate, in this period, besides the scheduled continuation of structural reforms, the necessity of the gradual upgrade of the functioning of public administration was again prioritised, which, however, also required the improvement of the strategic preparation of government decisions, the co-ordination of the implementation of decisions and of the supervision of implementation. In the following, we will itemise the major guidelines stipulated under GD:

A) *Restructuration of state administration*, which necessitated the systematic review of the scopes of duties and powers of state administrative organs.

a) In the scope of deregulation, in areas where intervention by the state was deemed unnecessary or could be effectuated by other, non-administrative instruments, the authority of state administration should be abrogated.

b) As to further maintained state administrative duties, in the scope of decentralisation, their accomplishment should be so far as possible transferred to a level closer to the relevant clients, to be administered by regional or local administrative organs or by public public as local organs of central administration. State administrative duties and powers, whenever possible, should be transferred to local governments.

c) Ministries should be exempt from the administration of concrete, specific matters of state administration, instead, they were designated to focus on strategic planning, co-ordination, provision of information, control and legal regulation.

d) The review of the barely understandable, very differently functioning and disproportionate system of the 54 central administrative organs functioning in non-ministerial form mainly as authorities, should be continued. The reinforcement of the autonomy and professional functioning of the organs in this scope was deemed necessary, whereas, their control was assigned to a Minister or to the Prime Minister in the interest of the potential effective enforcement of personal liability. (N.B., these organs gained importance in the process of accession to the EU and subsequently became clearly defined.)

e) The number of regional organs of state administration, the most important organs of the authority of state administration, decreased by a third by 1998, however, superfluous parallelisms could not be eliminated and their spheres of activity were not harmonised. Therefore, the improvement of the control and harmonisation of the functioning of regional organs of state administration by county (metropolitan) administrative offices, and thereby, the establishment of the conditions of the integrated functioning of regional state administration, were formulated as objectives.

B) In compliance with the demands of a market economy and modern public administration, the major procedural rules of the functioning of state administration needed to be revised and re-codified, so that they could supersede AGRSAP which at that time had been effective for more than forty years. The objective was to attach an adequately regulated system of legal redress to the transparent, expeditious and professional basic procedure, through a new regulation with the purpose of proper and effective sanctioning of those who infringe laws enforcing community interests.

C) A further objective consisted of the development of information and customer care systems necessary for the reinforcement of a service-oriented style of public administration, as well as in the programmatic and unified management of the information technology involved in public administration.

D) The role of the human factor in implementing public administration was deemed decisive, therefore, the array of diverse legal regulations for the legal status of the more, than 800,000 employees of the public sector was designated to be revised and potentially unified. The development of the requirements concerning the employees of the civil service was projected, so that expertise and efficiency determined the promotional system and employment security, furthermore, it was envisaged that the program for life-long civil service would be elaborated. For the purposes of guaranteeing elegant and high-standard work and intervention against corruption, it was planned that an Ethical Code of Civil Service and the institutional system required for its enforcement would be elaborated. Thereby, the establishment of such a system was envisaged that relied on a personnel in number proportionate with its duties, capable of professionally implementing its duties.

E) Further steps were intended to be taken to ensure the efficient functioning, further decentralisation and proper control (in the public interest) of the time-honoured system of local government.

a) Within that disintegrated system consisting of more than 3,100 local governments, a more efficient and professional system for the performance of duties within reasonable bounds was projected to be elaborated by way of adequate legal regulation, organisational and financial incentives. These objectives were envisaged to be attained without the infringement of the basic rights of local government via the differentiated assignment of powers and duties dependent on their respective capacities and via the encouragement of the establishment of small regional partnerships. Accordingly, the performance of state administrative duties were envisaged to be concentrated in district centres, which were to be established on the basis of the districts of public guardianship authorities (harmonised with record office centres).

b) By way of the transformation of the system of financing local government, duty and program financing was intended to be instituted, thereby, the ratio of local revenues in the total revenues of local government ought to have been increased. The compensatory support of disadvantaged local governments was envisaged to be more emphatic.

F) Finally, the elaboration of the concept of a regional system of public administration was formulated as an objective, in the framework of which, the potential future roles of county governments were to be determined with a view to the unified development of state administrative and self-governmental regions.

Since the ambitious objectives outlined above could not be implemented, they needed to be reformulated in the program for the development of public administration elaborated for the years 2001–2002, which was adopted under *Government Decree no. 1057 of 2001 (VI. 21.)*.

2. The Second Phase

2.1. Government that took office in June, 2002 committed to further the cause of a regional administration relying on small-regions,² also affirmed under *Government Decree no. 2305 of 2002 (X. 10.) on the Actual Tasks of Regional Development*, pursuant to which, preliminarily elaborated regional and county development programs were adopted as the basis of further planning. Under *Government Decree no. 1113 of 2003 (XI. 11.) on the Program of Modernisation of Public Administrative Services*, the major objectives of *Government Decree no. 1100 of 1996 (X. 2.)* and of GD were mostly reformulated.

Within the purview of *Government Decree no. 2198 of 2003 (IX. 1.)* on the Tasks of Modernisation of the System of Public Administration.

2.2. In compliance with the reform conceptions, the legal regulation pertaining to multi-purpose small-regional partnerships of local government was adopted in 2004.³ Whereas, in the absence of a political consensus, attempts made to establish regional governments were destined to failure.

2.3. Further pertinent law adopted during government session 2002–2006, with the objective of compliance with the requirements of the modern *Rechtsstaat*, was Act 140 of 2004 on Public Administrative Procedures and Services, which replaced the former legal regulation that had been valid for nearly 50 years. As a consequence of its coming into effect, public administrative procedures are now regulated in an even more transparent manner than under the former legal regulation, and exemplary in a European context since it more powerfully underlines the function of the executive power to provide services, considerably relieves the procedural burdens of clients and facilitates expeditious and unproblematic administration of public matters. Due to the new regulation, functioning according to EU standards can be ensured, thereby, it promotes direct co-operation with foreign authorities and the extension of international co-operation. Experiences of the first year of the application of the act, which took effect as of 1st November, 2005, are encouraging, but further correction is likely to be necessary.

2.3.1. Within the purview of the act, new institutions guaranteeing the protection of clients' rights are specified, such as

a) notification of the commencement of the procedure, extension of the scope of administrative decisions that can be subject to judicial review, e.g. taking action against interim decisions,

b) electronic management of procedures,

c) admissibility of the use of native language,

d) exemption of clients from most procedural obligations.

a) According to former rules, the client did not have to be notified of the institution of the procedure in the majority of cases, therefore, it could not exercise its rights specified by law in the initial phase of the procedure. Since the particular procedural rules prescribed the obligation of notification very rarely and only exceptionally, the client was notified of the commencement of the procedure exclusively in cases specified by law. Therefore, to safeguard clients' rights, mandatory notification was stipulated under the newly effective law. Obviously, this institution has rational limitations, i.e. the notification of the client is

² See Lamperth, M.: *Az önkormányzati rendszer továbbfejlesztése* (Further Development of the System of Local Governments). *Magyar Közigazgatás*, (2002) 11.

³ Cf., Act 107 of 2004 on Multi-Purpose Small Regional Partnerships of Local Governments.

unnecessary, if a decision on the merits is promptly made in an unproblematic case, or, if notification would endanger the efficiency of the procedure.

b) Since all administrative decisions may be judicially contested, former exceptions were revoked under the act. Two new forms of legal redress are specified, such as reopening and equity procedures. In the scope of reopening the procedure, the client is permitted to initiate reopening the procedure, if, within 6 months of reaching the final detrimental decision, the client has learnt a new fact, datum or evidence, as a result of which, a more favourable decision could have been passed. A major prerequisite is that the new fact, datum or evidence had existed before the specific administrative decision was passed (but the client learnt about it subsequently). Equity procedures may be instituted, if the enforcement of the decision for a reason that occurred after passing the decision would incur grave drawbacks for the obligor. Such a reason may be the considerable deterioration of the social situation of the client.

c) The challenges of the 21st century require the insurance of a modern, adaptable and appropriately flexible system for the management of procedures. Therefore, the institution of electronic procedures and electronic communication within authorities, as well as the operation of electronic client information-systems, are admitted under the act. Accordingly, citizens may proceed electronically from their homes; however, in consistence with a non-discriminative policy, traditional, paper-based administration is sustained without imposing extra charges on the parties concerned. In fact, two options of electronic procedures are positively provided, that is, making appointments electronically with the authority and the provision of electronic information services. For that purpose, administrative organs shall operate Internet web-sites for the information of citizens about their pending affairs subject to the competence of the administrative authority.

d) In view of our EU-membership, re-grounding the rules of the use of language in procedures is a prominent element under the law. Therefore, authorities shall guarantee *ex officio* that foreign clients will not be disadvantaged by reason of the non-comprehension of Hungarian language. Hungarian citizens belonging to a national or ethnic minority as well as citizens of EU member states settled in Hungary shall be privileged, since they will be entitled to use their native language in administrative procedures.

e) It is stipulated that the client may not be obligated to obtain permission issued by other authority or the statement of the special authority for the purpose of the conduct of procedure. These obligations shall lie with the authority proceeding the basic case. Pursuant to the act, the proceeding authority may not request the verification of data not registered by the specific authority, and, for the purpose of relieving clients' procedural expenses, it is further set forth that the client may not be obligated to verify data stored in the legally prescribed register of any administrative organ functioning in Hungary.

2.3.2. Optional new institutions and binding rules pertaining to procedures by administrative authorities

Administrative procedures can be considered efficient, if the decisions of the authority are enforceable, and, if they take effect within a proportionate lapse of time. The objectives of framing the act included the increase of the efficiency of the enforcement procedure, however, its attainment is considerably curtailed by the limited number of experts specialised in enforcement, and occasionally, by the reluctance of the apparatus to apply force *vis-à-vis* the local population. For the purpose of increasing efficiency, enforcement services were prescribed to be established, in which expertise and public financial resources are concentrated. As a further solution, the admissibility of the establishment of authority

partnerships by local governments for the effectuation of enforcement is also stipulated under the act.

According to the general practice applied in the public administrative systems of developed Western-European democratic states, the authority does not negotiate with clients from a power position, but they mutually attempt to find a joint solution in a specific case. Conventionally, several European states successfully resort to the legal institution of authority agreement based on joint benefits, which is more efficient than an enforceable authority decision. The advantages of an authority agreement is that it is both implementable and judicially challengeable.

The admissibility of recourse to an intermediary provided by the authority is specified in compliance with the relevant recommendations of the Council of Europe and with the solutions effective in France, Sweden and Germany. Intermediaries shall perform mediation among clients, the applicant and the authority in procedures involving several parties by way of seeking the most adequate solution, provision of authentic information for clients and making proposals for the applicant and the authority for the optimal implementation of investment with due regard to the interest of the population. In most cases, the expertise of intermediaries is drawn in on matters related to environmental protection and industrial investments. Of course, the intermediary from the authority qualifies neither as a client, nor as an attorney of the clients, therefore, it shall not exercise the rights of clients or the procedural rights of attorneys and shall not be conferred the powers of the authority. Recourse to the intermediary is not mandatory, since the proceeding authority may freely adjudge its necessity in each specific case, if it is permitted under the regulations of the specific branch of law.

The observance of the terms of procedures is stipulated as an emphatic element, since legal consequences shall be attached to repeated default by the authority. Measures by reason of default are applicable *vis-à-vis* the head official of the administrative organ, grounded on the liability of the head official for the organisation and the effective completion of duties on schedule.

As opposed to prevailing practice in most EU member states, where administrative courts adjudge competence disputes, these shall be adjudged by the Metropolitan Court of Appeal departing from the former regulation. Thereby, the competence of special authorities is upheld and further reinforced.

2.4. In the two phases surveyed above, eleven government decrees pertaining to the reform of public administration were framed; however, no major breakthrough was achieved in areas apart from the above-mentioned ones.⁴ According to these programs and the conception elaborated in 2003,⁵ the projected transformation of Hungarian public administration should have been completed by 2006 on the basis of the system of legal conditions to be determined in 2004.

3. The Third Phase

3.1. In compliance with the conception adopted in 2003, the Government that took office in June, 2006 endeavoured even more firmly to conclude the reform of public administration. Therefore, it submitted bills on the establishment of regional governments thus amending

⁴ Cf., Act 107 of 2004 on Multi-Purpose Small Regional Partnerships of Local Governments.

⁵ Cf., Act 107 of 2004 on Multi-Purpose Small Regional Partnerships of Local Governments.

the Constitution, and also on the amendment of the Act on Local Governments (ALG), however, Parliament did not pass these in void of the required qualified majority.

Framing the bills was motivated by the intention to establish regions for local government, which could have realised decentralisation by the transfer of a significant scope of duties and powers and of assigned resources from central organs to that level of public administration. Simultaneously, currently functioning county governments aligned with towns of county rank would have been abrogated. The latter one would have been replaced by cities as a prior settlement category. Albeit, while both the parties in Government and in opposition agreed with the principles of decentralisation, the opposition would endeavour to realise these on the basis of county governments with millennial tradition, rather than by way of new regional governments to be established on the basis of seven statistically planned regions.

Nonetheless, according to the government, professional and political negotiations necessary for the establishment of regional governments will recommence in 2007 on the basis of the rejected bills. For the interim period, *Government Decree no. 2118 of 2006 (VI. 30.) on Organisational Transformation Promoting the Effective Administration of Public Revenues and Substantiating Measures*, among its various provisions, ordered the establishment of bases of regional state administration, since its adoption did not require a qualified majority in Parliament. In this scope, the general areas of competence of the regional administrative organs (with the exception of agricultural special administrative organs) will be divided into seven statistically planned regions, and each of those regional offices shall also have an area branch office in every county seat of their region.

3.2. Act 57 of 2006 on Central Organs of State Administration and the Legal Status of Members of Government and Secretaries of State was adopted on the basis of decisions reached during the preceding government session,⁶ and accordingly, the Constitution was accordingly amended under Act 64 of 2006.

3.3. Furthermore, Government has also set up a State Reform Committee, which is assigned the task of the elaboration of the coordinated reform of state and public administration, including the preparation and implementation of necessary decisions. The comprehensive reform of public sector human resources will also be accomplished by this committee, as prepared under Act 72 of 2006 amending the Statutes on Employment Relations in the Public Sector. Intended measures encompass the reform of extensive funding systems and of the administration of public revenues.

3.4. Overview of the 1990–2006 period

In a summary of the above-mentioned facts, we can assert that as a result of circumspect and considerate preliminary work, by 1990, the system of public administration characteristic of bourgeois, democratic and constitutional states was established in Hungary, constituted, on the one hand, by hierarchic state administration, and on the other hand, by co-ordinately functioning local administrative organs of local government controlled by locally elected bodies. Nonetheless, in the scope of the purposeful work targeting transformation, the attention devoted to specific areas was unbalanced, that is, state administrative organs, and also the functioning and human resources of public administration, were sketchily regulated, whilst the system of local government was grounded on meticulous regulation. The establishment of local government as the basic

⁶ See Sárközy, T.: Gondolattörések a kormányzás modernizálásáról (Fragments on the Modernisation of Government). *Magyar Közigazgatás*, (2006) 3–4.

institution of local democracy was reasonably granted priority by politics, since the replacement of the previous local administration based on the council-system, a peculiarity of the functioning of the socialist state, was imperative. This was also formulated as a requirement by the Council of Europe under its Charter of Local Self-Government, the rules of which were almost entirely transplanted into the effective ALG. As to state administration, the political variant and professional standard structure were established in the central administration and Ministries, while ALSCS, instituting civil service based on a career-structure, was adopted by 1992 and as a consequence of deregulation the prevailing law governing public administration crystallised and became more transparent by the end of the foundational period of 1990–1992.

As we have seen, the direction of the further development of the new system has been determined by the reform programs elaborated by the successive governments. The work of Government in session between 1994–98 was marked by corrective work demarcated by the Home Office and based on operational experience. In this period, the necessity for the reform of the functioning of state administration was emphatic and related to the medium-range reform of local government administration (pursuant to the amendment of ALG in 1996, public administrative offices were transformed into regional organs of central administration). It was the establishment of this system of institutions for regional development, the development of information technology for public administration and the adoption of the medium-range reform program of local government administration that supervened in this period.⁷ In comparison, the following Government in session between 1998–2002, did not effectuate major reforms of public administration, whereas in the most recent period between 2002–2006, the reform of the system of administrative procedures was remarkable.

We must conclude, though, that the transformation of public administration is still far from complete, since fundamental reforms encompassing both structural and functional measures, and also the unified regulation of public sector human resources, urgently need to be effectuated.

4. The Features of the Changes in Hungarian Public Administration from 2006 to Our Days

4.1. The Trends of the Changes

Since mid-2006 the trends of the development of public administration have been shaped highly peculiarly in Hungary. Namely, following our accession to the European Union the enforcement of the very disputable requirements—especially those related to regionalisation—of the European Administrative Space (hereinafter: EA⁸) wouldn't have been coerced externally, however, this became one of the major trends.

On the other hand, by this period the application of New Public Management (hereinafter: NPM) had been considerably abandoned in the developed countries of the world, whereas, in Hungary it was reinforced and became almost exclusive at that time.

⁷ See Verebélyi, I.: A magyar közigazgatás reformjának programja (The Program of the Reform of Public Administration.). *Magyar Közigazgatás*, (1996) 11.

⁸ Verebélyi, I.: Válságban a magyar közép szintű közigazgatás – hogyan tovább? (The Hungarian Medium-Level Administration in Crisis—How to Go On?) In: *Jobb közigazgatás* (Better Public Administration). Budapest, 2009. 96–122.

Therefore, it may be a principal aspect of our examination why this phase delay in comparison with other countries ensued? It is easier to explain the insistence on regionalisation with reference to EAS, since it was primarily motivated by political, not by professional administrative considerations. This issue was principally determined by the elective basis of large parliamentary parties and its prospective evolution, which was directed at the territorial transformation of the division of powers.

Regional governments did not have antecedents in Hungary either in a political or economic sense. The formation of regions can be principally connected to the EU nomenclature of regional development, which targeted the administrative adjustment to the level of NUTS-II. However, the economic and political decentralisation would have primarily limited the central power of the state, which would have created a decent space for withdrawal of the then governing parties to be forced into opposition, which was distinctly anticipated following the two government sessions. Therefore, it was not supported by the parties in opposition at that time and rising to power in 2010.

The professional rationality of the regionalisation of state administration was higher, since the scope of action of the majority of regional state administrative organs operating then overreached the boundaries of the general territorial administrative division of the country, scilicet, of the counties. It is also true that the most frequent cases requiring administration close to the clients were managed by state administrative organs operating in smaller territories than the regions. Therefore, a situation emerged in which regional development and state administration would have required regional operation, whereas, local governments would have required counties by reason of the maintenance of institutions providing public services.

Nevertheless, regional identity had not developed among the population, therefore, this did not enjoy great social support. As regards the belated but all the more radical application of NPM, it was substantiated by political reasons rather than by administrative development. Namely, the then social-liberal government had a mere narrow majority in Parliament, in which the intention of the smaller, liberal governing party was overrated. One of the main objectives of the governing party professing a neo-liberal conception of the state was denationalisation and the constraint of the power of the state in public administration. The already aggravated economic situation in Hungary substantiated these endeavours as means to discharge the budget, the rational contestation of which was difficult. It turned out only later that privatisation and outsourcing served individual and party interests in many cases and led to corrupt procedures still underway. This logic was perceivable in every respect, but it was seemingly less manifest in the dissolution of the traditional framework of civil service based on career structure.

However, the resistance of the qualified civil service with vocation in public administration was considerable in the face of the implementation of objectives extraneous to the system, therefore, it needed to be announced that the transformation of public administration from within was not possible, but it had to be updated by external elements. To achieve this, the regulation based on closed career-structure had to be amended, whereas, it became necessary to focus on performance assessment and measurement, which was promoted by the economic associations of the competitive sector via orders financed from the budget. Therefore, it is not accidental that the application of NPM was especially manifest in the transformation of the civil service system.

4.2. The Changes in Civil Service

In Hungary, the Government taking office in 2006 changed direction radically *in re* the reform of civil service, as well. While before 2006 the objectives consisted in the

modernisation of the closed civil service based on career structure and the unification of the ramified regulation pertaining to the public sector, after 2006 the decentralisation of the closed system of civil service under labour law took place.

In the spirit of the considerate domestic application of NPM, the conceptions until 2006 would have narrowed down the performance-based scope besides the reinforcement of the elements connected to guarantee, but later the efforts with an effect until 2008 targeted the complete liberalisation of the system of fees and connected it to performance. The radical relief of the regulation pertaining to the closed system of civil service was commenced at the beginning of the 2006 government session via the rapid amendment of the act on the legal status of public servants.

Great steps were taken towards a regulation affected by labour law via the relaxation of the controls over discharge, the aggravation of the rules pertaining to work during the period of discharge, to the payment of salaries and severance pay, via the extension of the withdrawal of the assignment to management to the termination of the legal relation of civil service.

The institutional background of the transformation of civil service also changed since besides the competent State Reform Committee a separate under-secretary of state from the competitive sector was also appointed for the tasks related to civil service. For the purpose of the reinforcement of the reform, the governmental duties related to civil service and the competent office was transferred to the Prime Minister's Office from the dissolving Ministry of the Interior. The objectives formulated in the governmental program related to the transformation of civil service were the following: "Higher performance requirements shall be posed to employees working in civil service and the rules of their application will be more flexible. High-standard performance will be rewarded by more appreciation, human resource management will be modernised and the employment of young, competent experts will be encouraged." By this and the guarantee of the person of the under-secretary arriving from the competitive sector attempts were made at the belated, but all the more radical application of NPM in civil service.

Upon the motion of the Government taking office in May 2010, Parliament adopted new law (Act 58 of 2010) pertaining to civil servants working in state administration and converted this group into government officials. This concerned the majority of 116,000 civil servants, i.e. 70,000 persons. In the new regulation, we must highlight the institution of the discharge of public servants without justification and the attachment of the nomination of ministerial management to the approval of the administrative under-secretary of the ministry for governmental coordination, which in line with other similar modifications constituted a shift towards civil service with a more open system of positions, what is more, with a spoils system.

Although, the institution of discharge without justification was annulled by the Constitutional Court, "the reason of the loss of confidence" in replacement made the shift towards the spoils system even more emphatic.

The so-called Magyar Program containing the medium-range reform of Hungarian public administration determines a peculiar direction of development for civil service by stipulating that "The most important issue is the determination of the values according to which the new civil service career-model should be shaped... The choice of values should be based on the mixture of a career-principle representing stability and predictability and of the values of efficiency and performance presuming flexible adjustment to changes ... Such a career-model is needed which maintains the advantages of the career-structure, but at the same time facilitates flexible adjustment to changes. Flexible adjustment can be achieved

by focusing the thinking of human resource management gradually on the sphere of activity.”

Of course, this duality is not a Hungarian peculiarity, since we can find its signs among the conceptions of development in other countries, as well, with the exception of the institution of the discharge of public servants subject to discretion.

4.3. The Effects of New Public Management and Regionalisation

It is clear from the above that among the international trends of the development of public administration in recent years mainly “New Public Management” and regionalisation have had the greatest effect on Hungarian public administration in the spirit of EAS.

These, however, were erroneous reference points already at the outset. Namely, in our view EAS as a point of reference has never marked out unequivocal trends of development, but it endeavoured to enforce requirements according to the shared values of the public administration of EU member states for the purpose of the establishment of the administrative capacity necessary for the operation of the countries concerned by the Eastern expansion as member states. Admittedly, once there were cautious attempts at the application of certain elements of NPM in the EU in this framework, but the result was essentially restricted to the modest application of the CAF system, i.e. the evaluation framework applied in the area of quality management at an EU level.

Apart from this, it is undeniable that in Europe the application of the NPM guideline was offered the largest scope in civil service, which began to undermine besides the systems of appraisal and remuneration, the complete traditional regulation of civil service based on career-structure. Furthermore, the almost halting, what is more, regressing process of NPM was put in new light by the impact of the financial-economic depression discernible since 2008 on the public sector.

According to our standpoint, the major cause of this was the persuasive rhetoric of NPM. Namely, in our view one of the causes of its evolution was the growth of the organisation, personnel and budget of public administration in every developed country, the increasing burdens of which the competitive sector did not intend to and couldn't finance in the interest of the maintenance of its competitiveness. Therefore, the objective was set that public administration should function at least with the same efficiency, performance and at the same standard as the competitive sector. In view of that, it should constrain its activity via the elimination of the superfluous elements, via the involvement of the civil or the competitive sector in the performance of the necessary tasks, via the measurement and accountability of the performance of the invariably remaining administrative tasks and via making them more transparent in the interest of efficiency and quality.

These endeavours affected the organisation, activity and personnel of public administration equally. In this scope, human resource management as the most expensive element of the system of public administration has been distinctly highlighted. In the developed countries, the distinctively prevalent civil services based on career-structure were artificially raised from the labour market and they operate according to the comparative advantages guaranteed by law, i.e. not at the market value of the accomplished work, but on the basis of the social recognition of work carried out during the entire professional career in the interest of the public. These firm, predictable and guaranteed elements could jointly secure a balance in the labour market in the long term, on the basis of which the choice between the competitive and public sectors presented a real alternative.

With reference to EAS, the other international trend of the development of public administration affecting Hungarian public administration most was regionalisation. In the post-millennial years, the problems of medium-level public administration in Europe were

determined by the questions whether regionalisation can be a general trend or other solutions are also available for decentralisation and the shift of the spatial structure of public administration meeting economic demands? Several disciplines deal in-depth with regionalisation and/or the problems of regionalism applying diverse approaches, as a result of which we abound in both international and Hungarian scientific technical literature.

At the same time, we are short of concrete analyses based on genuine empirical data, especially of those which examine the results and changes of legal regulations and factual operation in process broken down by countries. The Council of Europe has dealt with the subject-matter of regionalisation for a long time and the concept of regional autonomy has been defined under the "Helsinki Principles" of the Council of Europe. According to the respective report of the Council of Europe, we need to differentiate regionalisation from regionalism in order to assess the regionalising processes underway in Europe. Regionalisation is a method of the territorial organisation of the state, while regionalism is political philosophy decentralising state power to a regional level. The various manifestations of regionalism conform to diverse inner content and sets of values including the principles of separatism and democratism as well as those promoting political principles colliding with human rights. The relation between territoriality and identity needs to be treated very carefully. It may occur that the same person bears strong regional and national identities at the same time. Regionalisation as a form of the organisation of the state is actually widespread in Europe and it can take very different forms in its different countries. The European debate about regionalisation clearly demonstrates that the phenomenon is not one-directional in the specific countries and does not occur with the same intensity. We can infer from the analysis of the practice of Council of Europe member states that the transformation of medium-level governments and of other elements of public administration is continuous, but its concrete manifestation is so diverse that we cannot claim the existence of a determining European regional tendency in our days.

Nevertheless, we can assert that at least at the level of endeavours the demand for the revision of the territory of the existing medium-level governments in the spirit of the formation of larger units has prevailed even in European unitary states since the mid-1990s. In the federal states the respective attempts have been forestalled by the fact that the member states are generally historical formations, the territories of which are protected constitutionally.

The other distinct tendency is shuffling tasks between the central level and medium-level governments: in this case not only the one-directional decentralisation, but recentralisation also prevail (e.g. Denmark).

On the basis of the surveys and documents of the Council of Europe we can set forth that regionalisation is not an objective, but a potential instrument in the development of the public administration of the democratic *Rechtsstaat* in most countries. The specific circumstances of a certain country and the opinion of the concerned population determine its concrete form and its schedule. Consequently, directives such as "The Europe of Regions" was a favoured instrument applied by the Committee of Regions as to the distributional and operational system of structural funds in the functioning of the EU, however, it did not expand to become a movement towards a federal Europe based on regions. Therefore, it is not accidental that based on the Helsinki Recommendation of the Council of Europe framed as a result of compromises almost all traditional democracies accommodate medium-level governments between the central and local governments, which fit the concept of region regardless of their denominations. In this broad scope, any regional government classified under six categories included in the Recommendation can be

defined as region. Nevertheless, neither the document nor current European thought settles the case when several levels of regional governments obtain in a country: the relation among the levels shall be settled by domestic legislation and the document refers merely to the observance of the European Charter of Local Self-Government and the principle of subsidiarity.

According to the above, we may infer that the management of the complex process of regionalisation at the medium level is a task to be solved on a national level with regard to local governments and we cannot allude to an explicit international tendency in this direction. The situation is slightly different as to state administration and the regional state administrative organ of the government.

Namely, in this respect we can set forth that the representation of the state and the governments is reinforced in the regions under area development but not via the centralisation of former general administrative powers (e.g. authority matters, legal supervision), but the reinforcement is rather due to new roles based on social-economic real processes. Nevertheless, this role is motivated by the current government policy, which as an expectation is more and more reflected in the assignment mechanism of the heads of offices leading towards political discretionary assignments.

As a matter of course, the traditional administrative roles are still important in the regional representation of governments, the attendance to which mostly remains the task of public servants and they are invariably administered at a regional level closer to the clients where multiple regional levels obtain. On the basis of the new scopes of tasks, a new regional partnership is emerging between the regional organs of governments and local governments and in this partnership the regional representatives of governments play an increasingly important role.

The newly evolving sphere of action consists frequently in operative organisational work based on partnership affecting regional social and economic processes. The role of the regional representatives of governments is changing and increasing in the long run *in re* EU relations, since the progressive role in the regional social and economic real processes cannot be operative without EU connections. The central power has commenced to curtail or reinforce its regional economic and social role.

These new activities are integral to the evolving multi-level government proclaimed by the EU. This essentially concerns what the new assignment of the organs involved in the performance of administrative tasks will be (state administration, local governments etc.) under the circumstances changed by the financial and economic crisis, i.e. what the new division of labour will be like with a view to the accomplishment of common European and national objectives.

In June 2006 the Government formed in Hungary under the conditions described above targeted the reform of public administration based essentially on the new trends of regionalisation and NPM more firmly than before. In favour of the reforms, the Constitution was amended and at the beginning of the government session, Parliament adopted new law on Parliament and central organs of administration, a decision was made on the radical regionalisation of state administration and on the introduction of market methods into the regulation of civil service. The Hungarian Government tabled draft law on the amendment of the Constitution and of the Act on Local Governments required for the foundation of regional governments in the absence of adequate political and parliamentary support, therefore, the motion was rejected by Parliament for lack of the required two-thirds majority. The tabled motions targeted the establishment of governmental regions effectuating decentralisation so that significant scopes of duties and powers and earmarked resources

would have been transferred to this level of administration from central organs. In parallel, current county governments as well as the towns of county rank would have dissolved. The latter one would have been replaced by the large city as a privileged settlement category.

The governing parties and the opposition agreed on the principles of decentralisation, but the then opposition would have implemented that on the basis of the millennial county governments, not via the new regional governments to be established in the 7 statistically planned regions. According to the purposes, the measures of the state reform would have encompassed the revision of state duties and the reform of the large service providing systems and state finances. Two most controversial measures of the reform conceptions manifest in the amendment of pertinent law were the regionalisation of the regional level of state administration and the transformation of the system of civil service to be implemented in the spirit of the application of NPM.

Although, it can be appreciated that the central administrative organs were comprehensively regulated by law for the first time, its actual provisions (especially the termination of the office of the administrative under-secretary) were vaguely considered and not elaborated according to scientific requirements. Namely, these measures such as the general regionalisation of regional state administration were not preceded by systematic scientific preparation at all or if they were (such as the proposals of the codification committee established for the regulation of central administrative organs and *in re* the regionalisation of metropolitan and county administrative offices), these were finally disregarded by Government upon its decisions. The restructuration of the administrative spatial structure into small areal and regional levels in the absence of professional, political and social consensus could not be implemented in the administration at local level and it was only partially successful in state administration managed by Government.

Furthermore, the regionalisation of metropolitan and county administrative offices performing the legal supervision of local governments was adjudged unconstitutional by the Constitutional Court. The correction of the unconstitutional failure in void of proper consensus was not effected until the change of government in 2010, therefore, the legal supervision of local governments was suspended for one and a half years in the absence of operative administrative offices as regional organs of government.

Since the spatial-structural changes remained in torso, the functioning of regional administration became non-transparent and wearisome, its efficiency and quality deteriorated and local civil service became unreliable. Meanwhile, with the involvement of the competitive sector and EU funds, Government deployed great forces in order to radically revise the duties performed by the state and local governments constituting the state and to transform the system of the performance of duties. Nevertheless, the intentions to change were not supported by social or professional consensus, consequently, the political resolutions were not followed by implementation.

Following the second half of 2006, the external, professional and scientific system of the preparation of governmental decisions changed fundamentally. The resources available were utilised centrally by the State Reform Committee, which endeavoured to integrate primarily the competitive sector into the elaboration of reforms, therefore, the professional staff of the portfolios could participate exclusively if they were related to these programs. However, the work done by organisations less familiar with the closed system of public administration (including the before-mentioned so-called revision of public duties) did not lead to appreciable results.

From 2006, the conception that public administration cannot be reformed from within prevailed invariably. Whereas, the measures based on extraneous proposals and producing

conflicting effects many times did not improve either the efficiency, effectiveness or the quality of public administration discernably, but usually further impaired them. At the same time, the reform endeavours made great demands on social resources and the uncritical and coerced application of the instruments of NPM destroyed the institutions functioning well previously (e.g. the Hungarian Institute of Public Administration) and subverted the traditional set of values of public administration and civil service, while it could not create anything new.

At the same time, the professional capacity of the prestigious representatives of the domestic and foreign science of public administration was not utilised for the reforms, or if it was, that was rare and unilateral (the supporters of the current political conceptions). The changes supervening in the world (the continuous expansion of the neo-Weberian state and public administration, loss of the importance of regionalisation etc.) were not regarded upon decision-making, although they had been elaborated in the Hungarian science of public administration. The “results” were that public administration became thoroughly destabilised, its set of values was subverted, its efficiency regressed, which challenged even the achievements of the previous one and a half decades after the change of regime expounded in parts 4.1–4.3.

4.4. Current Changes

Following from the above it may not be surprising that subsequently to the change of government in Hungary in 2010 we could almost instantly discern the intention to change public administration radically. The main trend consisted in the reinforcement of the spheres of action of the state and of public administration. Instead of regionalisation, the government program targeted the reintroduction of integrated state administration on the basis of county governmental offices. This implies the peculiar application of the ideology of NPM otherwise not favoured by the new government, according to which county governmental offices with several thousands of staff as mega organisations will be established on the basis of the large and inevitably fused offices.

These conceptions are supplemented by centralisation efforts affecting the system of local governments besides the nationalisation of a significant part of the tasks performed and powers exercised formerly on this level, the aggravation of the financing system and the completion of the instruments of legal supervision.

These reform endeavours are expanded by the changes affecting civil service outlined above as continuity of doubtful value between the bashful approach of former governments to civil service shifted towards a plunder-system and the radical and explicit assumption of these endeavours. These have been substantiated by the Basic Law functioning as a new Constitution, which in comparison with the former one as a skeleton law provides great flexibility for the implementing fundamental laws for the transformation of not only public administration, but also of the complete state organisation.

The efforts expounded so far also indicate the difficulties related to the termination of the confusion of the set of values of public administration established formerly. The diversely motivated and not properly harmonised conceptions of development may give rise to or reinforce conflicting processes, therefore, in our view exclusively the acceptance and consistent implementation of a complex medium-range program elaborated and supported on an extensive basis similarly to the program of 1996 could provide real solution in our unstable public administration and civil service.

The “Magyary Zoltán Program for the Development of Public Administration”, elaborated during the functioning of the current Government in June 2011, provides theoretical opportunity for the solution, but its content is unfolding merely gradually, so any judgement concerning its adequacy would be premature.

5. Conclusions

5.1. Determinations and National Peculiarities in the Former Two Decades of the Development of Public Administration in Hungary. The changes in public administration described in the previous chapters rightly raise the question whether they mark a peculiar “Hungarian way” or that is the common fate of Central-Eastern-European countries in transition. At any rate, the framework for development was the same, namely, the outset with the Soviet-type public administration before the change of regime as well as the international programs, especially the EU PHARE and the OECD SIGMA Programs promoting its transformation were common. The concept of the European Administrative Space directed at the determination of a common European set of values in public administration also derived from the Eastern expansion of the EU.

Hungary was at the cutting edge of the transformation of public administration in the Central-Eastern-European region at the beginning of the 1990s. This manifested itself primarily in the rapid establishment of the local governments system and in laying the foundations of a career civil service system. Nevertheless, urgency led to a lack of balance among the various areas of public administration and the structural reforms were not followed up rapidly by a change in functioning. It was a recurrent question whether we adapt the administrative solutions prompted by EAS adequately and how they can be enforced under particular Hungarian conditions.⁹

The experiences of more than two decades and current problems may jointly justify the answer, which must be inevitably differentiated. In the period directly preceding the change of regime the requirements of EAS had not been formulated yet. Therefore, we applied the convention of the Council of Europe to the local government system, which was a kind of skeleton law, so we needed to draw primarily on the former experiences of our public administration upon the detailed regulation. The bilateral development programs-in-aid originating principally in traditional European democracies arrived subsequently to the entry into effect of the new regulation, therefore, they could provide assistance merely to the perfection of its functioning, furthermore, they contributed to retraining the staff of public administration, which was very important.

The OECD PUMA and SIGMA Programs promoted primarily the development of the system of civil service as well as deregulation. However, what prevailed in the approach of the programs was NPM as an alternative to former classical public administration, the domestic application of which caused not only trouble but also a confusion of values in the absence of adequate conditions.

In other Central-Eastern-European countries in transition the reforms generally commenced later and were implemented more carefully than in Hungary. In this respect it was a positive feature that we took the lead, nevertheless, the downside of this was that we could not rely on the experiences of other countries, whereas, the governments of the

⁹ Balázs, I.: A XXI. század közigazgatásának kihívásai (The Challenges of Public Administration in the 21st Century). *Magyar Közigazgatás*, (2000) 7.

countries concerned were edified both by our achievements and failures. The continuous and rapid transformation exhausted public administration after a period and the reform programs with low efficiency discredited the ideas promoting the necessity of reforms themselves. Public administration weary of the reforms itself became gradually not supportive of, but passively resistant to the cause of the reforms, which merely reinforced the philosophy of NPM based on a neoliberal conception of the state implying that public administration cannot be reformed from within.

Meanwhile, the European Union in need of OECD support in the development of public administration was obliged to frame the requirements concerning public administration for the countries intending to accede, i.e. the shared values of the public administration of member states, which had not been sought for institutionally previously. However, the document of the European Administrative Space was conceived already in the spirit of NPM, which was reflected in its content and its development.¹⁰ Since the subject-matter of this work does not include the examination of the development of EAS, we will disregard its detailed elucidation, whereas, we cannot contest its impact on the development of the public administration of Hungary and the countries of the Eastern region. This impact, however, is not unambiguously positive, since under its auspices we could find abundant examples and especially grounds for reference for the uncritical and coerced application (in the absence of the necessary conditions) of the principles of NPM supported by underlying European principles.

Although, this process emerged as a framework of conditions attached to the Eastern expansion, it obliged the EU before the 2004 expansion to deal with the shared values and development of European public administration even if public administration was a domestic issue of the member states overreaching the scope of EU regulations. Nevertheless, the capacity of public administration is a determining element of social and economic development, the expansion of which has absolute priority.

In certain cases Hungary was under an excessive illusion concerning both NPM and EAS, it was more responsive to them than the other countries concerned. Today, however, as a party both to the European Union and EAS, Hungary with its specific experiences can contribute to the development of European public administration. Whereas, the above-mentioned, currently running complex program of the development of public administration alludes to a more considerate and subtle approach, which related to the consideration of international experiences sets forth that “any solution originating abroad or in the market may be applied exclusively with proper criticism and the examination of its effects.”¹¹

¹⁰ Orta, C.: *Quel avenir pour l'Espace Administrative Européenne?* Maastricht, 2003.

¹¹ Magyary Zoltán Program for the Development of Public Administration (MP11.0). Ministry of Public Administration and Justice. Budapest, June 2011.