

LEGISLATION AND JUDICIAL (ADMINISTRATIVE) LAW IN PRIVATE LEGAL RELATIONS AND SOCIAL LAW FROM A MANAGEMENT THEORY PERSPECTIVE

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ABSTRACT

Legislation and the application of law (judicial, administrative) are embodied within the framework of the state system. With regard to the different areas of law, civil law (private law) and social law, the regulatory role of the state can be highlighted. In the case of a person occupying a leading role in the system of state organizations, loyalty, compliance with legal requirements, and compliance with orders may be given priority when assessing suitability to be a leader. Expectations of leadership differ according to whether the managerial position is held in public administration or in the judicial system. This distinction is mostly due to the fact that public administration is traditionally understood to be part of the executive branch, while the judiciary embodies the judiciary and judicial branch as an independent branch of power in the system of separation of powers. The basis for the existence of the judiciary as an independent branch of government is the permanent declaration of its independence from other branches of government.

Keywords: legislation, administrative and judicial enforcement, civil/private law, social law, leader

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INTRODUCTION

Approach, theoretical basis

The study¹ falls *within the field of state and jurisprudence*, which includes legislation, the application of law (mostly related to constitutional law, sociology of law, state and legal theory), private law and social law.² The area of law concerning civil law and social law has been chosen because they are completely different branches of law. The latter area is related to training and research in university education.³ The investigation concerns domestic legislation and judicial and administrative law and the application of judicial and administrative law concerning civil law and social law from the time of the regime change in Hungary onwards, from 1989-1990 to the present day, as well as the management of these areas of law. The interpretation of leadership in legislation and in the application of law is determined by which branch of government the leader belongs to.

The subject matter of the research

This specific research aims to connect a topic related to the field of political science and law with the discipline of management theory in connection with the examination of leadership roles. *The literature generally holds management theory to be linked to the discipline of social science,⁴ directly connected to the discipline of political science and contained within the field of administrative law.⁵* We are convinced that state and legal science and the management sciences can also be classified as social sciences, thus allowing for a direct connection between the two disciplines to be established.

The process of legislation and application in the field of private and social law require execution by the leadership of the organisational unit (institution). The present research examines the management of a state (and not ecclesiastical) organization exercising official authority and endowed with public authority.

¹ This paper is an edited version of the presentation delivered at Christian Leadership Conference in Budapest on 6 September 2024.

² In this paper, the terms “civil law” and “private law” are used interchangeably.

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⁴ Czuprák, Ottó: *Leadership Theory*, Budapest, Nemzeti Közszerológiai Egyetem, 2012, 5; Torma, András: *Chapters from the State and Legal Science Foundations of Organizational and Management Knowledge*, Miskolc, 2013, 8–69.

⁵ Rixer, Ádám: *Criteria for evaluating Hungarian administrative jurisprudence*, 47–55.

The position of the person leading the institution can be examined on the basis of the theme “Leaders between the positions of role model and idol”. This is naturally a different perspective than the one which would be employed if it were a church institution. *The methodology of the research is based on the interpretation of primary sources (Fundamental Law of Hungary, legislation) and on comparative processing and analysis (document analysis) of data from secondary sources, domestic and foreign literature (legal literature).*

LEGISLATION AND JUDICIAL (ADMINISTRATIVE) LAW

Legislation and application of the law (whether judicial or administrative) express the relationship of the law and everyday life. The world in which we live is in constant motion, change and transformation due to the digital revolution and the generalization of electronic communication between legal entities (individuals).⁶ *The law (legislation and application of the law) must be able to keep pace with changes in human relationships.* Therefore, the law usually tries to provide some kind of answer to social processes, sometimes adequately, but other times unsuccessfully.⁷ In the relationship between law and society, it is usually movements in society that provoke the reaction of the legislator (and not vice versa).⁸

It is therefore not legislation that brings about changes in society. On the contrary, these dynamic changes must usually be reflected retrospectively by the law. *Law and society are never structures that form static systems; they can be seen as arenas for constant change.* The process of legislation (the legislature) and judicial and administrative application is maintained and operated by the state.⁹ *The power to legislate is always the privilege of the majority that holds political power.* Any parliamentary majority of a political community exercising political power, the range of laws requiring more than a simple majority and the proportion of votes required for the adoption of a law determine whether other political actors need to be involved in the legislative process.¹⁰ The

⁶ In Hungary, Act CIII of 2023, which entered into force in principle on 1 July 2024, provides for the digital state and the rules for the provision of digital services.

⁷ Maczonkai, Mihály. *Sociology of Law*, Pécs, Janus Pannonius University Faculty of Political Science and Law, 1997, 7–9.

⁸ The relationship and interaction between law and society can be evaluated as a permanent field of research in the sociology of law.

⁹ About the state, see Ham, Christopher – Till, Michael: *The Policy Process in the Modern Capitalist State*. New York – London, Harvester Wheatsheaf, 1993; Parsons, Wayne: *Public Policy*. Edward Elgar Publishing Limited, 1995.

¹⁰ According to its Fundamental Law of 25 April 2011, the Hungarian Parliament generally enacts laws by a simple majority vote (Article 6(5) of the State).

content and meaning of legislation (law or regulation)¹¹ acquire a specific meaning and interpretation through the application of the law by judicial and administrative bodies.

*It is generally believed in the legal literature that due to the activity of the court in interpreting a specific law, one can speak of the law created by a judge (court) that can be regarded as an independent legislative power.*¹² The Anglo-Saxon legal system is based on the law of precedent, the legal principles formulated in previous court decisions, and there is a tendency to approach this practice in the continental legal system (including Hungary).¹³ The supreme body of public administration in Hungary is the Government, and it is entitled to establish state administration (administrative) bodies as defined by the law.¹⁴ *Administrative law enforcement activities take place within the system of public administration.* Therefore, the application of administrative law in the system of the separation of powers is linked to the executive branch.

LEGISLATION AND JUDICIAL (ADMINISTRATIVE) LAW IN PRIVATE AND SOCIAL LAW

After reviewing the process of legislation and law enforcement in general, let us now turn to how they appear in the two areas of law examined, private law and social law in Hungary. In Hungary, at the time of the change of regime, in 1989-1990, Act IV of 1959 on the Civil Code, the old Civil Code (hereafter: old Civil Code) was in force with regard to civil law, and there was no uniform code for social benefits, which was only established later with the creation of Act III of 1993 on Social Benefits and Social Administration (hereafter: ASB-SA).¹⁵ The Act on Social Assistance, which forms the basis of social assistance,¹⁶ has been amended several times over the past thirty years and is still in force. As a rule, its provisions have been in force from 1 May 1960) entered into law on 15 March 2014 with the creation of the new Civil Code, Act V of 2013 on the Civil Code (hereinafter: Civil Code), and is still in force. *The significance of the Civil Code in the legal system is that it covers almost all types of human relations.* According to Lajos Vékás, the Civil Code, the private law code, is

¹¹ Fundamental Law Chapter Fundamental Principles Article T (2).

¹² Badó, Attila – Loss, Sándor – H. Szilágyi, István – Zombor, Ferenc: *Sociology of Law*, 117., Kulcsár, Kálmán: *Sociology of Law*, 43., 197–198.

¹³ In Hungary, the legal uniformity decisions and precedent-setting decisions of the Curia are binding on lower courts (Article 25(3) of the Fundamental Law).

¹⁴ Article 15(2) of the State Chapter of the Fundamental Law.

¹⁵ The Act was adopted by Parliament on 30 December 1992, and most of the provisions of the Act entered into force on 27 January 1993.

¹⁶ Homicskó, Árpád Olivér: *Systematics of Hungarian Social Law Benefits*, 221.

the second most important law of the state (the country) after the Constitution (Fundamental Law).¹⁷

A significant difference can be identified between the two selected areas of law, not only as regards the subject matter of regulation, but also as regards the range of entities involved in the legal relationship. *Private law follows the model of a social market economy, while social law is a specific,¹⁸ defined area of public social policy.* In the context of private legal relations, the laws of supply and demand developed on the market play a significant role, while in the field of social law regulation, the legal policy aspirations of the state are decisive. Civil legal relations are not influenced by state legal policy aspirations or the budgetary situation of the state. They develop independently of the state between legal entities (individuals), which is why the use of the term “private law” – independent of the state, i.e., public, law – may be justified for these legal relations. Legal relations related to social law, on the other hand, can be placed in the state (administrative) sphere, where the legal policy intentions and aspirations of the representatives of the state at any given time are of decisive importance. This characteristic of social law is particular to public branches of law.

Civil legal relations are based on the coexistence of legal entities (individuals) and the equivalence of services, where the parties have the opportunity to freely shape their legal relationship within the legal framework. In the field of civil legal relations, even if the state appears in them, it does not appear as an exercise of public authority. *In the field of civil law, the provisions fixing legal relations between the parties are dispositive (permissive) rules, while in the field of social law mandatory (strict) rules that do not allow for derogations appear. The dispositivity of civil law rules provides the subjects of the legal relationship with the possibility of disposing of it within the framework of legal provisions, while in social law, in which the body acting on behalf and on behalf of the state is one of the subjects of the legal relationship, this type of leeway no longer exists for the other subject of the legal relationship (natural person).* Disputes arising in civil legal relations that come before the courts are decided by the courts (judicial application of law). Administrative decisions taken by a public body in the field of social law constitute an activity falling within the scope of administrative enforcement. *In areas governed by social law, public administration bodies exercising official authority (as state bodies) appear as one of the subjects of the legal relationship; they make enforceable decisions and exercise public authority.*¹⁹ An important difference between the two areas

¹⁷ It is the basis of the Fundamental Law's legal system (Article R(1) of the Fundamental Law).

¹⁸ Vékás, Lajos (ed.): *The Civil Code with Explanations*, 18.

¹⁹ Hoffman, István: *Introduction to Social Law*, 19.

of law is that, unlike private law, social law (the right to social security, the right to health care, the right to housing, etc.) can be regarded as a fundamental right enshrined in the constitution.²⁰

It is an interesting question to assess what triggers legislation (legislative amendments) in the two areas of law examined, two areas which differ significantly from each other. There are necessarily two reasons for making legislation (amending legislation) in the field of private law: a) the development of judicial jurisprudence forces the state to codify into law the interpretation and explanation of the legislation and the jurisprudence developed by the court; b. on the other hand, changes in commodity relations, market relations, and in social and economic traffic exercise an “imperative” effect on the legislator to change legislation, implement legislative amendments, or create new legislation. Among the determining factors for the change and development of the two areas of law, the findings of professional forums and the legal literature, and especially the professional opinions and opinions developed by the institutions of the social care system in the field of social law, cannot be ignored. *The professional audience in civil law may consist mainly of representatives of jurisprudence, while professional opinions concerning the social care system are formulated and established not only by legal experts, but also by professionals dealing with social issues.*

In the field of civil law, since this is the determining law of personal relations and economic relations, the number of disputes before the courts is consistently higher than before the courts in the social field. *As a result, judicial practice plays a strong and dominant role in developing law in the field of private law.* Several rules crystallized in judicial practice can be mentioned that have become legal provisions (e.g., property claims of spouses, the addition or limitation of inheritance claims).²¹ These rules, laid down in the Civil Code in force, were previously established by the court as a conclusion and as law in connection with the adjudication of a given private law dispute during the application of the law by the court. *The generally applicable principles established in the course of judicial application are incorporated into legislation in the form of new legal provisions.* As a consequence, the judicial application in private legal relations has a direct impact on the legislative process. Unlike the trend observed in private legal relations, legal regulation in the social field does not depend on judicial jurisprudence, but on the legal policy intentions of the state and the legal policy objectives of the legislator. *As a common set of the two areas of law, it can be emphasized that processes, tendencies, and changes in society as a result of legislation and the application of law play a more significant role*

²⁰ Drinóczi, Timea: *Social rights*, in Jakab, András – Könczöl, Miklós – Menyhárd, Attila – Sulyok, Gábor (eds.): *Internet Legal Encyclopedia (Constitutional Law columnists: Bodnár, Eszter – Jakab, András)*, <http://ijoten.hu/szocikk/szocialis-jogok> (2019) (1) (2) (accessed 5 January 2025).

²¹ Civil Code §§ 4:59, §§ 5:70-5:72, § 7:2.

than individual leadership ability or position. With regard to legislation and the application of the (judicial, or administrative) law, one or more responsible persons may be identified, but the direction followed and the criteria it meets are determined by (political) interests that go beyond individual leadership.

The application of law by the judiciary is linked to the administration of justice as an independent branch of government. *The application of administrative law, as part of the executive (public administration), can also be linked to an independent branch of government, the executive.*²² The functioning of the court is characterized by independence, submission only to the law, and the absence or prohibition of instructions.²³ With regard to the application of administrative law, the judicial review of administrative decisions provides supervision and control of the judiciary as an independent branch of government. The process of the application of administrative law in Hungary is determined by the legal regulations in force at any given time. However, the relationship of public administration, as an area under the control of the Government, cannot be disputed with the political sphere.²⁴ The structure of the currently existing Hungarian public administration system can be placed in the structure of “Government” – “Minister” – “Sheriff/Lord Lieutenant” – “District Registrar”.²⁵ However, the system of separation of powers does not involve administrative control of the judiciary due to the independence of the court and the trial judge. The application of administrative law generally does not affect private legal relations.²⁶ Therefore, there is no conflict of competence between the separate areas of the two different types of application. An appeal may be lodged against an administrative decision made before the notary by filing an action with the administrative body within the statutory time limit.²⁷

THE ROLE OF MANAGEMENT IN LEGISLATION AND JUDICIAL (ADMINISTRATIVE) LAW

In Hungary, laws are adopted by Parliament and decrees may be made by the Government or its member, the Governor of the Hungarian National Bank

²² Article 26 (1) of the State Chapter of the Fundamental Law.

²³ Article 25 (2) of the State Chapter of the Fundamental Law.

²⁴ Article 15 (2) of the State Chapter of the Fundamental Law.

²⁵ Act CXXV of 2018 on Government Administration (hereinafter: GAA) §§1-3, §, § 5., §§ 39-41., §§ 48-49.

²⁶ Except for the rules of Government Decree 16/2015 (II.16.) on property protection proceedings initiated before the notary.

²⁷ In Hungarian law, the application (appeal against the decision) must be submitted to the notary who made the administrative decision dealing with the estate protection case within 15 days of being notified of the decision (Act CL of 2016 on the General Administrative Code (hereinafter: AGAC) § 118(3)).

(Central Bank), the head of the autonomous regulatory body and the representative body of local governments on the basis of the authorization of the Act. *In both cases, this involves (team) work carried out by a professional community, taking into account the preparation and drafting of legislation, behind which there is some legal policy intention, legal policy will. In a democratic state governed by the rule of law, the legislative process is determined by the legislator's intention and interest in legal policy, independent of the person, which usually does not manifest itself in the person of a leader. Legal policy intentions and interests are less personified than those of the people who draft legislation and participate in its process.* In the application of judicial law, the trial judge makes the substantive decision (judgment) "on behalf of the court" but prepares and signs the decision himself. In the course of administrative law, the decision in the case is made by the "special administrator", but the decision is signed by the head of department at the level of the district office. The administrative head of the court's organisational unit (president or vice-president) has no say in the substantive decision of the court. The application of administrative law is also an activity defined by law, and its supreme body and manager is the central government, which plays a political role.

In the legislative process, the leading person who determines the direction of the process (legal policy objective, legal policy interest) is usually not given. *In the system of public administration, since it is part of the executive power, the political aspect cannot be completely ignored when filling a managerial position.* In the application of administrative law, where a position has to be taken on a professional issue (e.g., guardianship administration in the district offices of county (capital) government offices, in the procedures of the department of labor, or in administration before the land registry department), a professional decision is usually made in accordance with legal requirements. *In the application of judicial law, the trial judge is independent, cannot be instructed, is subject only to legal requirements, and his decision is influenced only by previous precedents and the decisions of the Curia on legal uniformity.* Individual decisions are made in the application of judicial law and administrative law, where the main goals are compliance with legal requirements and the enforcement of professional aspects. In the application of judicial law, it is possible for the trial judge to change certain non-substantive judicial decisions on his own initiative, but a possibility of correcting the decision made at first instance is provided by the ordinary remedy (appeal). *In the application of administrative law, it is possible to amend, revoke, or apply a supervisory measure under certain legal conditions.*²⁸

²⁸ AGAC Section 115(1) – (6), AGAC Section 121(1) – (4).

LEADERS BETWEEN THE POSITIONS OF ROLE MODEL AND IDOL

In the process of legislation and law enforcement, the importance of leadership is less pronounced compared to other areas (e.g., the organizational system of the university or the organization of the church). The legislation is strongly linked to the exercise of political power, and the application of law (both judicial and administrative) seeks to enforce professional aspirations within the legal framework. When occupying a managerial position in the state organizational system, compliance with legal requirements is a very important circumstance. The role of leadership in legislation (the legislature) belongs to the person who has the right to initiate legislation under the authority of the Fundamental Law.²⁹ At the same time, it cannot be ignored that there is always some legal policy intention or aspiration behind the legislative initiative.

*In the judicial system, a managerial role is an administrative managerial position.*³⁰ With the exception of the President of the Curia, the head of the court may hold the managerial position for a fixed period of time (two terms of six years).³¹ In the public administration organization, the heads of administrative departments (minister, chief sheriff, district registrar) also play a political role as part of the public administration (the executive). The mandate of the Minister is linked to the operation of the Government and to the Prime Minister's intention and political vision, and the mandate (appointment) of the chief sheriff and the district registrar is not tied to a specific duration of time.³² The management levels in both the judicial organization and the administrative organization can be defined in the courts as follows, from the highest level downwards: 1. *President of the Curia of Hungary*, 2. *President of the Court of Appeal*, 3. *President of the General Court*, 4. *President of the District Court*.³³ Two central administrative bodies should be highlighted in the judicial organisation in Hungary: 1. *the National Court Office (hereinafter: NCO), which carries out the central administration of courts*, and 2. *the National Judicial Council (hereinafter referred to as the NJC), which supervises the operation of the NCO, as well as the President of the NCO and the President of the NJC*.³⁴

In the administrative organization, from the top down, from the top of the hierarchy, the following positions can be defined: 1. *Government (Prime Minister)*, 2. *Minister*, 3. *Sheriff/Lord Lieutenant*, 4. *District Registrar*, 5. *Head of*

²⁹ In Hungary, laws may be initiated by 1. the President of the Republic, 2. the Government, 3. the parliamentary committee and 4. a Member of Parliament (The chapter entitled "State" of the Fundamental Law Article 6(1)).

³⁰ Act CLXI of 2011 on the Organisation and Administration of Courts (hereinafter: AOAC) § 9 (1) – (3).

³¹ AOAC Section 127(1) and (3).

³² GAA § 1 (2), § 50 (1).

³³ AOAC § 10 (1).

³⁴ Article 25 (1) (2) of the State Chapter of the Fundamental Law.

Department. The legislative process is inherently connected to politics. A leading position in the legislative process can therefore be seen as a political role. Certain differences can be identified between the application of administrative and judicial law. The application of administrative law as part of public administration (implementation) is also related to politics, but the exercise of its activity is subject to legal requirements. *In the judicial application of law, the main emphasis is on the normative role and on professional activity defined by legal regulations and its activity is independent of politics.*³⁵

In the system of state organizations, the person occupying a leading role does not appear primarily as a role model or idol. In the administrative and judicial field of the state organizational system, the head of the specific organizational unit may be of great importance. *In these areas, the personal qualities of the leader and the expectations set by the appointee can also affect his "suitability" for the leadership position.* In the system of state organization, legislation (the legislature), the judiciary and public administration, *the leading person is primarily a person serving the state.* In a significant number of cases, state service involves a serious commitment on the part of the leading person. Those individual abilities are necessary, in both the administrative and the judicial organization (state power organization), in the private and business sphere alike, for success in a leadership position (open personality, good communication, integration, consistency, purposeful leadership attitude, recognition and quick resolution of problems, ability to make decisions, effective management of conflicts, etc.). At the same time, leadership roles in other areas (e.g., church organization, university organization) differ significantly from the leadership role in the examined branches of state power (court, public administration) in several respects. In the system of organization of state power, the leader is also the instrument for exercising state power. In representing the state, the leader is the only person who appears at the given organizational level towards the outside world. In the private or business sector, the manager does not necessarily fulfil such a role (e.g., the business organization may have several managing directors entitled to make independent decisions).

Leadership roles in the state (state power) and non-state spheres are also of a different nature in that in the former cases, leadership roles cannot be completely separated from political circumstances. This direct link can be clearly demonstrated in the system of public administration as an organisation that

³⁵ On the management of the court, see Llagami, Naureda: Leadership in the Judiciary: Management and Administration Roles in the Justice System. *Global Journal of Politics and Law Research*, Vol. 12. No. 2, 2024, 71–89; Thumma, Samuel A.: On Leadership for "the Every Judge", *Court Review: The Journal of the American Judges Association*, Volume 56, University of Nebraska, Lincoln, 2020, 68–74; Shepard, Randell T.: The Changing Nature of Judicial Leadership. *Indiana Law Review*, vol. 2009, 42, 767–772. Hunter, Rosemary – Ruckley, Erika: Judicial Leadership on the UK Supreme Court. *Legal Studies* vol. 38, no. 2, 2018, 191–200.

implements executive power in practice. In the case of leadership positions held in the judicial organisation – with the exception of leaders elected by Parliament – the relationship with politics is not and cannot be important due to the quality and soundness of the professional application submitted for the leadership position. *A common set in the judiciary and public administration is full compliance with legal requirements (normativity), but political considerations also play an important role in public administration due to the political affiliation of positions (e.g., minister, chief minister).* This type of influence is usually not observed when holding management positions in non-state institutions and during the period of their exercise. There is also an additional difference between management positions in the public and non-public sectors. We believe that this follows from the relationship that the person holding the managerial position has to the legal requirements. In the state (state power) sphere, the assessment of the work, activity and operation of a person occupying a managerial position depends to a greater extent on compliance with legal requirements, given that the organization headed by him also performs official law enforcement activities, than in the case of a person occupying a managerial position in the non-state (state power) sphere. In the non-state (state power) sphere, the duties and powers of the person holding a managerial position are, of course, also determined by legal regulations, however, since the leader does not represent a state interest, but the interest (economic interest) of the given company or business organization. Consequently, the legal regulations applied to him or her are also subject to a different assessment. The personal qualities, professional aptitude and employment criteria of the leader overlap to a large extent in the state (state power) and non-state spheres. The reason the two spheres do not fully overlap is that if the political aspect appears when filling a leadership position and judging leadership activity, it also changes expectations towards the leader.

Political determination when taking up a leadership position and its possible renewal raises the value of political loyalty when assessing fitness to lead. When filling a non-state (state power) leadership position, economic or other considerations usually play a role (e.g., experience gained in education in the organizational system of the university or in the organization of the Church when filling a leadership position, attachment to the organization due to previous work, managerial experience). Therefore, professional aspects and professional aspirations are emphasized in the performance and full implementation of these tasks.

The term “loyalty” has different meanings for the head of a state agency and for the head of a non-state organization. *For the head of a non-state-run institution that does not perform a state function, “loyalty” may appear not primarily in a political sense, but in a professional sense, in relation to the relationship to one’s own principles and beliefs.* The head of a non-state

business organization usually does not perform state (state power, state administration) tasks. Therefore, the question of loyalty with political content cannot arise in relation to him. For the head of the body performing tasks related to state power, political loyalty is the pledge/condition for the continuation of the managerial mandate/operation. For the head of an organisation or institution performing a non-state (state power) function, loyalty can manifest itself in at least three senses, as indicated above. *The length of time for which a leadership position is filled in the organization of state power shows a different picture.* Leadership roles related to legislation cannot be separated from the parliamentary elections held every four years in Hungary.³⁶ In the application of administrative law, the mandate of the Government (minister) depends on the outcome of the parliamentary elections and the intention of the Prime Minister at the above-mentioned organizational levels. At a lower level (Sheriff/Lord Lieutenant, District Registrar), there is no term limit, but the duration of the appointment cannot be disconnected from the result of the election and the intention of the appointee. In the judicial system, the position of manager is subject to a fixed period of time (six years), which is usually renewable once.

CONCLUSIONS

1. *The state leadership roles examined in the research topic have one thing in common: they are all linked to a branch of state power and thus indirectly to the division of powers* (legislation: legislature, implementation; judicial application: judiciary; administrative legislation: implementation). The leading role in the three branches of power determining the functioning of the state means that the state has serious expectations of the leader and the leader is under strong compulsion to comply. In a democratic state governed by the rule of law, the leadership role of the state is directly or indirectly linked to a branch of state power in the system of the separation of powers. As a result, leadership also takes on a political dimension.

2. A circumstance that strengthens the role of state leadership even in the position defined by legal regulations is the *personal charisma* of the leader stemming from his personality (the existence of which is independent of whether the leader performs his duties in a state, non-state or Church organization).³⁷ The personal charisma and charismatic radiance of a person in a leadership position comes from his personality. The subjective characteristics and characteristics of the human personality, as well as its relationships with

³⁶ Article 2 (3) of the State Chapter of the Fundamental Law.

³⁷ Weber, Max: *Economy and Society 1. – Foundations of Understanding Sociology*, 248–259.

the members of the work organization, determine the acceptance of the individual occupying a specific leadership role by the community. In the exercise of power, the personal charisma of the leader can captivate his employees, who may think of him as someone located at some point in the space/field between “idol” and “role model”.

3. In the public sector, the manager appears primarily as a *public employee*, although in public administration and in the judiciary, he has a different emphasis, whose main focus is less on personal relationships with colleagues during the period of office. A managerial position in an area of state power must imply for him the responsible “operation” of an organization or department under the direction of the head. An important difference between a state leadership role and a leadership position is that the former role usually involves direct contact with the world of politics. A person in a leadership position – not in the organizational system of the state – cannot detach himself from the world of politics completely, but the relationship is usually not a direct one.

4. *The leader in the public sector is primarily responsible to the State due to his or her leadership role*, whereas any classification of the leader in the area/field between “idol” and “role model” may occur from persons who come into contact with the leader. The body which appoints or elects the leader does not regard the leader as an idol or role model, but *rationality and pragmatic considerations related to the management of the organisational unit can usually be taken into account over the manager’s activities regarding the issue of efficiency*.

5. The professional value of leadership in a state organisation can be: a) in legislation: the immediate reaction of the law to social changes through the creation of new legislation or legislative changes (*speed, openness, consensus*); b) judicial (administrative) application of the law: full compliance with the statistical approach, swift and thorough completion of the cases received by the authority as soon as possible (*timeliness, soundness, efficiency*).³⁸ *In all of the areas of state organization mentioned in this study, significant social expectations and compliance are also formulated for the operation of persons holding a leadership role in any of the areas of state organization mentioned in this study and the organization headed by them (public administration, courts)*. This may be the case with regard to judicial organization and public administration, for example that the principle of “customer-friendly” service

³⁸ Magyary, Zoltán: *The Hungarian Public Administration*, 75–81. For public administration, see also Horváth, Imre: *Administrative Organization and Management*. Budapest–Pécs, Dialogue Campus 2002; Fabián, Adrián: *Public administration theory*. Budapest–Pécs, Dialogue Campus, 2010.

is applied in the exercise of the law. Full implementation of this objective is, of course, the responsibility of the head of the department.

6. The objective to be achieved by the leaders of the state organization is the enforcement of the interest of the state (public interest, public good).³⁹ The leaders of the supreme organs of the state are the implementers of the legal policy goals that the state seeks to achieve. According to the requirement formulated for the state, it must create conditions that entail dignified social conditions for the individual (citizen). In the realization of this goal of the state, the responsibility of the state leader is paramount.

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³⁹ Article 38 (1), Article 28 of the State Chapter of the Fundamental Law.

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- Act CLXI of 2011 on the Organisation and Administration of Courts
- Act V of 2013 on the Civil Code
- Act CL of 2016 on the General Administrative Code
- Act CXXV of 2018 on Government Administration
- Act CIII of 2023 on the Digital State and the Rules for the Provision of Digital Services