

Rainer Pitschas

Looking Behind New Public Management
“New” Values of Public Administration
and the Dimensions of Personnel Management
in the Beginning of the 21st Century



FÖV

12

Discussion Papers

Rainer Pitschas

Looking Behind New Public Management

“New” Values of Public Administration and the
Dimensions of Personnel Management in the
Beginning of the 21st Century

FÖV 12
Discussion Papers

Forschungsinstitut für öffentliche Verwaltung
bei der Deutschen Hochschule für Verwaltungswissenschaften Speyer

2004

Nicht im Buchhandel erhältlich

Schutzgebühr: € 5,-

Bezug: Forschungsinstitut für öffentliche Verwaltung
bei der Deutschen Hochschule für
Verwaltungswissenschaften Speyer
Postfach 14 09
67324 Speyer

<http://www.foev-speyer.de>

Universitätsprofessor Dr. iur. Rainer Pitschas

Ordentliches Mitglied des Forschungsinstituts für öffentliche Verwaltung

Inhaber des Lehrstuhls für Verwaltungswissenschaft, Entwicklungspolitik
und Öffentliches Recht an der Deutschen Hochschule für
Verwaltungswissenschaften Speyer

Preface

Reinventing government and modernizing public administration is a big issue in public policy since the end of the 20th and at the beginning of the 21st century. For in the wake of globalization and liberalization over the last two decades, numerous national and international documents and reports brought out by international institutions and world leaders have advocated a variety of reform strategies for achieving sustainable development and efficiency of public authorities. These efforts privatization and contracting of services, liberalization, and introduction of competitive and market economy, which have been adopted and tried in various proportions in almost all countries of the world developed and developing.

The consequences of these measures in most countries have been mixed and the proposed reforms have nowhere met with spectacular successes. Even today, most countries, specifically the developing and the former socialist ones, continue to be dogged by the same kind of ills that pervaded them before the adoption of strategies spelled out by the advocates of market and competitive economy and the so-called New Public Management movement, especially relating to the problems of service delivery, transparency and integrity.

So it is no surprise, that bit by bit and the above mentioned development to an “economisation” of public management in view, the question of values is going to arise. The new “bureaucrats”, do they really have (and if so, where from?) enough integrity and honesty so they can be trusted with public property, moneys, power and the interests of a social state? Do they follow clear guidelines of partisan abstinence, being liable to painful structural reforms, that means are they fair and motivated in what they do, human, jealous of their reputation and not corrupted? Are they neutral enough against the private interest groups? One may be doubtful about that, if we look back at the Public Administration’s core values and operating principles (“code of conduct”). Those values describe in a paraphrastic way a special ethos of public service. At the same time, they build its veins to civil society, which are more and more tied up by the modern democratic social state under the rule of Law in the sense of strengthening common weal and keeping ready guidelines for corresponding public management. So we should ask: Is not the omnipotence of state the ill, i.e. his warranty responsibility instead the lack of “managerialism”? Don’t we need, above all, a new philosophy of solidar-

ity and individual responsibility in the world-wide change of values within civil society? At the end, it is first of all a matter of ethics, the “New Social Market Society” in the 21st century, after creating a special management and redesigning government.

On the background of that push of modernization this book presents several lectures dealing with the topics are mentioned before. They are part of a research study about the german “New Steering Model in Public Administration and the Reform of Administrative Law”, which was carried out at the Research Institute for Public Administration, Speyer. I think it is time to give an impression about some contents of this research work and to show, how public management should be integrated in a law bounded and worthy governance in the heart of “old Europe”.

October, 2004

Rainer Pitschas

Contents

1. The European and American Public Administration Today – the German Model	1
2. Reforms of Public Administration within the European Union: Why do we need more Ethics in Public Service?	17
3. Professionalism in Public Administration. An Indispensable Value for Restructuring Public Administration.....	37
4. Behind New Public Management. Decentralisation in Progress and Human Resources Development: The German Education and Training System for Public Officers as an Example.....	55
5. The Influence of Administrative and Government Reforms on the Change of the Command Economy to Market Economy – the Case of the Middle and Eastern European States	77
6. E-Government and Democratic Legitimacy in the Partnership-based European Constitutional State	93

The European and American Public Administration Today – the German Model*

I. Introduction

In many ways the public services of the big industrial states face similar challenges. With declining public budgetary means, increasing competition with the private sector and the general demand for more efficient management, they are also under growing pressure for higher productivity and progressive modernisation. Specific examples in this context, which can be seen in many states, are the public service reform and the reforms of the pension systems or such of employment relations as well as the trends towards greater flexibility. However, despite similar challenges and comparable trends, the reform processes underway in most states are in no way identical. On the contrary, they are influenced by diversity and specific national characteristics. This, sometimes different, reaction to similar processes makes it of course even more interesting to compare the experiences, especially highlighting some of the main trends in the area of national public services in Germany, the EU Member States and USA, to compare different reform models with each other, and to discuss advantages and disadvantages from which a learning experience can be drawn. The aim of my contribution is to give some impressions about the German concept of modernising the public administration and the civil service in midst the European Union.

* Published in Portuguese language in: Mozzicafreddo, J./Gomes, J.S. (Eds.) (2001), *Administração e Política. Perspectivas de Reforma da Administração Pública na Europa e nos Estados Unidos*, Oeiras/Portugal, pp. 63-76.

II. Modernisation of State and Administration in Germany

1. Reform Requirements of the State Sector

In Germany there is today no doubt about the necessity to modernise state and administration. The welfare state has been overburdened beyond capacity. Denoting this is not only the immense influx of individual laws. Furthermore alarming is the proportion of the entire expense of the state in the gross domestic product. The period between 1960 and 1980 is shaped by an unprecedented and active expenditure policy of the western industrial nations including Germany. The question that arises today is whether the growth of the state during the past 35 years has indeed led to a considerable increase of social welfare. In any case, in Germany the general awareness is prevalent today that in view of the increasing worldwide economical competition, neither the public production of goods and services nor the social safety net can any longer be financed to the present extent. The welfare state is in this way pressurised into modernising.

Admittedly there are further developments demanding the reform of the public sector. Up to now the powerful responsibility of state and administration has suppressed the citizen's individual responsibility and development of freedom. And it is also for this reason that the state in Germany is subject to the "imperative of change". Accordingly an emphatic attempt has been made over the past few years to link up to the widespread international trend of "economising" the public sector.

2. Model of Modernisation

Meanwhile efforts have continued to adjust state and administration to the changing national understanding and the changing responsibilities of state and administration. Necessary strategies for this are the relinquishment of responsibilities and a reasonable share of responsibilities within the Federal Government between the federation, states and municipalities and also for the state sector to concentrate on irrefutable responsibilities, which would mean the transition from a producing to a safeguarding state.

It is true though that the model of modernisation is no longer – like some time ago – confined to the mere downscaling of hierarchies in

the sense of a “slimmed-down state”. On the contrary: the tendency associated with the change of values in the western societies to increased individualisation and willingness to take on self-responsibility for one’s own individual development has to be taken into consideration. The **model** of the “activating state” thus opens up a forward-looking perspective. Its implementation is shaped by four key objectives that presuppose a high degree of flexibility and willingness for reform amongst the administration of the state and its employees, the citizens as well as the social groups. This involves on one hand a new allocation of responsibility between state and society: admittedly, the commitment of the former remains, namely to protect freedom and security as core areas of its sole responsibility (i.e. interior security, legal protection, financial administration). But there are vast areas amongst the responsibilities – so far understood as being public – that do not necessarily have to be carried out by the instruments of state themselves. Instead it is up to the state to support appropriate potentials of self-control within society and to provide the necessary room for manoeuvre. This also requires persons involved, be they of the state, partly of the state or private individuals, to work together to achieve certain targets.

This requires a **partnership of responsibilities** of the citizens. In an activating state these are equal partners in fulfilling their responsibilities. As a consequence of this, today mainly the involvement of the citizen is being reinforced and the transparency of administration is being improved. In this process the benefits of the “electronic government” are increasingly being used. In future information technology will form the basis to inform and communicate with the citizens.

An essential element of German sovereignty is the federal structure of state and administration. Accordingly the government levels and the municipal self-government have to co-operate more strongly. Partnership of responsibilities and duties will, therefore, again become a stronger component of the federal principle. It has to be taken into account that Germany is a member-state of the European Union (EU) and thus carries a relevant responsibility within the international state community. But in this respect the following applies: The municipal administrative level has to follow the principle of subsidiarity, to keep intact room for manoeuvre on every level and first and foremost to strengthen the lower administration level in its self-responsibility.

With this the fourth key objective of modernising state and administration in Germany is made the focus of attention. It is about the re-

newal of administrative interior structures. Public administration has to become more efficient on all levels. Additionally in Germany the **internal rationalisation** of the public sector in the sense of effectiveness and efficiency becomes more significant. At present the structure of administration is being reviewed in respect of whether unnecessary hierarchies or bureaucracies should be abolished. This seems to be possible by means of competition and comparison of performance. Orientating toward “best solutions” makes it possible to optimise business processes and thus creates able structures for the future. This obviously can only be achieved if the efficiency of utilising personnel and means are improved considerably. In Germany, therefore, the reform of the public service is considered the most important task.

3. Concept of Modernisation

Regional differences need to be taken into consideration when trying to find answers to all the problems arising. For example: the Anglo-American concepts of modernising public administration, like the “New Public Management”, “Reinventing Government” and others, have become influential, but they do not seem to have gone beyond plain reduction policies (“Cost Cutting”, “Down Sizing”). In the Middle- and Eastern European states, however, it is in contrast all about firstly establishing a functioning democratic and decentralised state administration and furthermore making accessible to the public employees principles of political neutrality and a responsibility promoting the rule of law. Different again is the situation in South Asia. Here it could be possible to increase economical efficiency by means of deregulation and reduction of the public service and, therefore, improve the situation of the financial policy and reduce corruption.

In view of this, the conviction in Germany is that modernising state and administration is an administrative-cultural process shaped by tradition, requiring the development of an inherent concept of modernisation. The characteristics of this process are the strategy of rationalisation inwards and privatisation and deregulation outwards. Accordingly, a distinction can be made between the modernisation of the state as a change in the relationship between citizen and state on one hand; on the other hand there is modernisation in a narrower sense which mainly deals with the domestic structures of the German administrative system and intends to include entrepreneurial patterns into public administration. This forms the basis of the so-called “**new**

control model” which is first and foremost in use in the administrations of municipalities and towns. This model and concept is based on the idea that administration is being changed according to the model of Concerns acting in the private sector and that the administrative action is subject to a market-similar concept. In this transition from bureaucracy to entrepreneurial management the citizen faces these “Concerns” as the “customer”. This is the reason why local government is being modernised into a service enterprise. The underlying orientation toward the customer and quality is being promoted organisationally by creating decentralised institutions of efficiency and responsibility. The control of these administrative centres that have to produce efficiency on a set budget, is achieved with the aid of the judicial system and controlling. It reflects those pieces of information that are determined by means of calculating costs in relation to productivity.

The aim of this presently occurring rationalisation and the simultaneous introduction of entrepreneurial management techniques is to increase the economical viability of public administration on one hand (“more efficiency”); on the other hand it is hoped that the quality of public administration activities is increased according to the expectations of the citizens. The consequence for the employees in the public sector is that target- and performance-agreements are drawn up. Such a contract management wants to set guidelines or targets and with these formulate the targets to be achieved by the administrative activities and thus ensure their quality. Target agreements and benchmarking are also introduced between individual authorities as well as efficient administrative centres in order to introduce competition-like structures within public administration. After all, the aspiration is the strict functional separation of politics and administration on all levels: The first one is merely meant to be responsible for the strategic targets, in other words the “what” of the perception of responsibility, whereas the administration is responsible for the operative part of fulfilling responsibilities, in other words the “how”.

4. Processes of Rationalisation

a) Internal Administrative Successes of Rationalisation

In this way, considerable rationalisation successes have been achieved. Post-bureaucratic forms of organisations and public service

values become more significant; the transition from a bureaucratic performance model to a new decentralised administrative concept is recognisable. This way the efficiency and economical viability of German authorities has been increased. Their attention to service has been advanced.

In the areas of **organisation** one stage of development is the organisational achievement of independence of administrative bodies (“outsourcing”) from the general public administrative body. Alongside is the institution of flat hierarchies and the transition to a public service management that stresses the individual responsibility of employees for a decentralised resources management.

The **process structures** have also changed to a large extent. Here the modernisation efforts concentrate initially on the duration and lengthiness of administrative processes, especially when it comes to constitutional approval. In reducing legal regulations, environmentally-, business- and structurally-related examinations are expedited. Instead, the investigating boards of examiners are now acting within set deadlines; after these have expired, interim approvals are in force. In addition, the administrative process is linked to a dialogue- and project-management. While the former tightens up communication processes between administration and citizens, the latter means the administrative responsibility to fulfil a defined task within a limited period of time. All in all, these process structures of public administration now make sure that a stronger business process aimed at getting a result prevails, while at the same time taking back the proceeding regulatory connection.

The outlined stages of development finally correspond to the changes in **personnel** structures of the public service. Generally speaking, what these are all about is to accomplish the work of the personnel in line with the above mentioned structural changes. Accordingly, suitable concepts of personnel planning, mobility and development are needed. In other words: a specific human resources management is increasingly valued. It strives for:

- The gradual deepening of a service awareness
- The development of specific incentives to adopt decentralised responsibility
- The preparedness to increased mobility
- The introduction of a contract management.

In the centre of the latter are target agreements between the managers and their employees that state how certain results of work can be achieved constituting supportive measures in accordance with the individual development perspectives of the employees.

b) Reduction of the State Sector

The reconstruction of the state functions (“extreme rationalisation”) has also moved forward considerably in relation to society and citizens. To mention just a few examples: the first is the reduction of state duties in the areas of the postal service and telecommunications. The required services are now being carried out as a private-sector activity by companies (=Deutsche Telecom) that emerged from the special capital funds of the German Federal Postal Services and by other private providers. It obviously has to be noted that in the transition from a state business to the free-market-economy, competition is being created and promoted. This responsibility is still being considered as a governmental duty; as a result an appropriate regulatory authority has been set up.

Numerous preventive measures have been transferred to the private sector in order to safeguard technical, social and public “security”. In the area of “interior security” for example, the Federal Government and the States in Germany have given authority to let the private security service providers participate to a far greater extent than previously in guard and protection duties. The security business, therefore, is considered as the future body to maintain the preventive fight against crime and defend against public order offences.

Another example for reducing the state sector is the appointment of self-responsibility of economical enterprises for the protection of the environment that has been introduced in recent years. In this connection, the participation of groups of society is promoted in trying to accomplish the concepts and enforcement of objectives of the ecological policy. For example: the economical law of the ecological cycle and waste disposal which came into force in 1996 grants the producers and owners of waste the possibility to perform the duties of waste disposal as their own responsibility. The formerly predominant public waste disposal, therefore, becomes a “waste economy”.

Finally it should be pointed out that the social welfare law in Germany is competition-orientated. Here the shift of state responsibility

toward private initiatives during the course of the past few years is also comprehensible. A clear example for this is the legal health insurance, which has institutionalised a competition for members and their contributions. This does not, however, constitute a general “privatisation” of the social law of health insurance. But the legal health insurance considers itself to be introduced as the supplier and the one that makes demands on the markets of health services. The new direction being set is the fusing of private- and health insurance.

5. The “New” German Administration

The outlines of a “new” German administration begin to appear before this background, in which effectiveness and efficiency have gained a far higher standing than previously. At present the independent image of the **administration manager** emerges in Germany. He forms the opposite to the “organisational ruler” of traditional bureaucracies who has acted according to the ideal type created by **Max Weber**. Today in contrast, the post-bureaucratic administration has come to the fore.

Post-bureaucratic forms of organisations exist amongst others in the preferred development of project management and teamwork within the up to now hierarchical structures of the ministerial- and local administration. Furthermore, the previously substantial administrative bodies have been reduced on all administrative levels and have been decentralised in a new manner. In this way the main objective of modernisation, which is the “orientation toward the citizen” within public administration and at the same time making a connection with the citizens’ commitment, is implemented. The transformation of governmental and local administrative institutions into independent civil-law societies, furthermore, holds a large proportion of the changes in public administration. This applies to postal operations, to the entire telecommunications sector, the railway and also, but mainly on a local level, to the hospitals and also previous economical enterprises of the municipalities. Even the German Federal Armed Forces have hived off from a civil-law society for procuring military equipment.

6. Provisional Appraisal

Altogether far-reaching changes of the decision-making processes in public administration, its organisational structures, the administrative

procedures and its personnel structure can be noted. Accompanied by this is the often budget-controlled production of services. Even the audit offices have been included into this change. They change from “courts” to “auditing organisations”.

A second line of development is made clear by the now widespread use of information technology and the transition to using this in constituting “data warehouses”. With this, a new level of information is achieved for decision-making and communication amongst the authorities and also with the citizens. As a consequence, all this shows a dramatic change of the structural condition of public administration: “The whole machinery is changing”. Nevertheless, the key question remains: What are the results of these changes? Is it merely about a rhetorical disguise of customary promises of reform? How are the results of the change to be characterised? In my perception the best way to achieve this is by stressing the four key objectives of the changing process again:

- (1) The previous efforts in Germany show that it is not only about saving money, but that a better “performance” of the administrative activity is prominent.
- (2) If you look at the process of changes, a conflict seems to emerge between clientele- and customer-orientated modernisation and performance improvements on the part of administration. The crucial question is whether the citizens’ expectations of quality have been met by the increase of “performance”. Has the trust of the individual in the efficiency of public actions been strengthened by this?
- (3) Until now an on-going change of administrative structures can be noticed in Germany. However, the unsolved question is at present, whether it really is about a change of **administrative structures** in Germany. That, nevertheless, requires wide awareness of those responsible that such a cultural dimension of public administration does in deed exist.
- (4) Finally, the question arises whether such a **market model** of public administration has been created or whether merely a constellation similar to that of a free market exists from which modernisation in its entirety takes off. The decision for a market model would formulate the judgement of the expected results of the reform efforts differently. It can now be said that at least new types

of information have been gained, for example from the benchmarking via specific agencies.

III. Structural Conditions and Limitations of the Debate about Modernisation

Beyond these research tasks, imminent structural conditions and limitations must not be overlooked. Moreover, the specific conditions by which reforms of state and administration are integrated, have to be considered.

1. Rationality Connections of the Modernisation Process

a) Germany as a Social Constitutional State

The following belong to these in Germany: the responsibility for a **social state founded on the rule of law** in accordance with the constitution, the historically grown **administration culture** and the **development process in Europe**. Even the latter integrates Germany as a member-state of the EU into the process of Europeanization of state and administration.

The point of reference in any governmental and administrative modernisation process in Germany remains the democratic constitutional state which makes all governmental actions dependent on the principle of social justice, equality, transparency, freedom of the arbitrary use of power and corruption as well as the neutrality of state administration. It controls the task as a whole of public administration within the context of separation of powers as far as laws are concerned. The administration itself is subject to the principles of action of legality, expediency, economical viability and orientation toward the public or common good of the administrative actions. In all of this, the principle of legality forms the constitutional basis and guideline for all administrative actions.

Obviously the task of action of public administration goes of course beyond that. Public action is subject to a multitude of further and also different tasks, which is why there is an on-going dispute amongst German authorities concerning the aims, results and consequences (risks) of administrative actions. This mainly applies to complex ser-

vice responsibilities. The art of public administration lies in balancing the conflicts that result from the simultaneous use of varied responsibilities.

Due to and in view of the complexity of the related problem to optimise, the demand that administrative activity quite simply requires organisational-institutional simplification in accordance with an appropriately circumstantial increase of the process, has to be repudiated in the present debate about modernisation. It is because of the system of processes that it is possible to balance the underlying conflicts of the variety of targets and the openness of administrative actions.

b) The Peculiar Nature of "Public" Administrations

The outlined "inner" legal connection separates quite apparently public administration and its activities from that of private-sector enterprises. Of significance is the rationality of each system: As far as public administration is concerned, the public or common good is given priority in carrying out the duties. Entrepreneurial service activities of public administration are, therefore, always a **management for the public or common good**. It is subject to the priority of the legal system. There is no chance to be permitted to opt out of the legal framework by changing over to management techniques. Therefore, there cannot be any success in controlling the public sector "just as well" as this could be achieved by a private sector business. The control of the system by legal means for the public or common good cannot be replaced for public administration. However, this obviously does not rule out the approach to bring the above mentioned rationalisation processes within the context of modernising state and administration as closely together as possible to the economical criteria of rationalisation.

2. Limitations of the Concept of Modernisation

The limitations of the **new control model** in Germany are recognisable in this context. Fundamentally the question arises whether public administration is in the least structured as a Concern of the private sector. It is, furthermore, doubtful whether the citizen may (exclusively) be viewed as the customer in this relationship. This seems to be more

than questionable, especially in areas of administrative intervention. Additionally the model of supply and demand is inappropriate in the area of public administration as far as matters of the public and common good are concerned. With the introduction of setting budgets and controlling, it has, furthermore, to be considered how to deal with the failure to comply with the budgets. The debate about modernising the social health insurance at present taking place in Germany shows that in this respect the rationalisation of health services is looming. This phenomenon is also in the USA a known factor. In general, the questions of allocating responsibility in order to achieve targets and ensure quality are of great importance. Nevertheless, these questions do not change the fact that the new control model has to be considered as an innovative impulse for the modernisation of state and administration.

This applies regardless of having made the observation that already now – and after only having made partial use of the tools connected with the control model – inconsistencies appear in the administrative procedures. So the control model promises to reduce “red tape”, but it increases – by means of reporting and controlling – to a great extent the bureaucratic processes in the decentralised administrative units. The intention to increase “performance” is faced by the determination of administrations to save money and has in many places consequences for the attempted quality of services. This creates a conflict between politics and management in trying to achieve set targets. Furthermore, the application of the control model promises an increased administrative flexibility which, however, is faced with the problem whether the citizens as “customers” of administration trust sufficiently in its efficiency. “Trust”, however, is an indispensable public service value. Other inconsistencies are known, one of which being the conflict between specialisation of the agencies versus the costs of co-ordinating the activities; another one is the relationship between decentralisation and co-ordination and finally the task to inter-link the efficiency, increased by the autonomous responsibility of the administration managers, to corresponding responsibilities of the employees.

Finally the new control model in Germany can be classed as the tendency to steer public administration into a new direction. It is essential to minimise the public sector further in its historical continuity, to lead it to the rationalisation measures of free markets and to shape the modernisation process as a work in progress and to maintain it.

IV. Internationalisation of the Modernisation Process

1. Modernisation of State and Administration in the EU – Towards a Common European Model of Civil Services?

The reform of the state sector does not – as in the sense described above – proceed at the same speed in all EU states. They are hardly familiar with **German Federalism** that is essential for us. It is ultimately based on the idea of decentralisation of the modern state, in which the times of the classical centralised state are finally over, as the example of France shows.

The EU neighbours of Germany want to rather acquaint themselves with the concept of “regions”, as the examples of France and Italy show. Regional peculiarities appear, moreover, in Europe in respect of the administrative development within the Middle- and East-European states. These have formerly shared the fate of the now East German Federal states, namely to have been subjugated as a socialist state to a unique rationality of governmental actions. In these European states, modernisation of state and administration requires for the time being initial steps, for example the setting up of self-government within the regions. Beyond this, the requirements of internationalising public administrations shows, how, for example, they are connected with the foundation of the "World Trade Organisation (WTO)". They are concerned with the economical-, environmental- and patent administrations of the participating member-states.

The **Europeanization of administration** has a special standing within the context of the EU. Here it is mainly all about the administrations' co-operation during the emergence, decision-making, application and enforcement of European law on a national level. Joint challenges appear, especially in view of the national civil service. Dealing with these shows common trends, which are: on one hand to make the civil service more flexible and on the other hand to strengthen the ability to support the administrative units, responsible for European integration, in managing and co-ordinating the implementations of the objectives set in the Europe agreement and the partnership. Different options are in existence for this, naturally. Germany follows, also in this respect, its own strategy.

2. A Glance at the USA: The Principle of “Managerialism”

Already several years prior to modernisation in Germany, New Zealand, Australia, Great Britain and the USA began to re-structure their respective state-and administration-machines. In the forefront of this was an understanding of a “new public management” that inspired not only privatisation and deregulation within the state sector, but also the process of internal rationalisation of public administrations. The Anglo-American modernisation model attempted by means of introducing market-similar structures to achieve a maximal result (“output”) with a minimal use of means (“input”). The aim of the new public management was not to achieve a “lesser state”, but a better “performance” of administration by changing the developing organisations and business processes making use of modern information technology. A corresponding “downsizing was linked with this. Specifically important was, however, the introduction of a business-management thinking in public matters. Predominant are the principles of the “lean management” and the “total quality management”.

The concept of the new public management in the USA was modified in the so-called “reinventing government”. An attempt is associated with this model-variation to enable decentralised organisational units of public administration to obtain profits by careful management. Administrations are meant to act as **profit** centres.

3. The Difference in Systems: “Management for the Public and Common Good” versus “Managerialism”

The difference between the German control model and the Anglo-American control ideas lies in the connection of actions of public administrations on principal. In Germany the “rule of law” is essential on one hand: In public administration the performance of duties within a legally set context is predominant. The legal system takes precedence over “functional order”. System control is achieved through its connection with the law in accordance with the public and common good. Administrative managerialism will also in future be **management for the public and common good**.

Matters are different in the Anglo-American concept of modernisation, where it is also about the internal rationalisation of the public sector in favour of increased effectiveness and efficiency. But, ne-

vertheless, “entrepreneurial” management understanding remains predominant. This involves “creating a government that works better and costs less”. This conception is traditionally closely inter-linked with the conviction “that the study of administration should start from the base of management rather than the foundation of law”. One might consider this as being in contrast with legality and managerialism, but I consider this as being incorrect. It is more crucial to look at the **effects** of such an understanding of “good governance”. The cost of such a managerialism, alienating the ideal of the public and common good, are immense, as the example of the USA shows. It is also far too simple to make principles founded on the rule of law responsible for the deficiency of modernisation. It is precisely not about legality because the right of the modern, social and democratic state, founded on the rule of law, allows wide areas for effectiveness and efficiency with a specific direction. Rightly it seems to me, therefore, that in Germany the new control model is indebted to the motto of the **social administrative state**, that being not to grant any rights without responsibilities, but conversely to count on behaviour-forming powers of social institutions.

V. Summary

All developed states in this World are faced with the problem to find ways to achieve an on-going modernisation of state and administration. Many partly follow modernisation concepts that are of Anglo-American origin. At the same time, however, the conviction gains increased attention that the modernisation of state and administration concerns a process shaped by administrative culture and tradition. It is subject to respective national and regional distinctive features.

This also applies to Germany as a member-state of the EU. Here modernisation of state and administration develops in line with the new control model. Its concept shows a partial proximity to the modernisation ideas of the “new public management” and “reinventing government”. It is also concerned with the external and internal rationalisation of the public sector in the sense of effectiveness and efficiency. The transition to an entrepreneurial management is also demanded in Germany, as well as an approach orientated toward the customer and finally the application of market-economy and competitive structures.

In Germany, however, the challenges of restructuring state and administration, which originate from being a member-state of the EU, are added. The internationalisation of German public administration requires above all the modernisation of the public service that is in line with its European neighbours.

Beside this, German governmental and administrative modernisation is inter-linked with the state founded on the rule of law. The welfare state target of our community establishes above all the **social administrative state**. As a consequence, the principle of managerialism adopted by the Anglo-American modernisation concepts is opposed by the German fundamental idea of a state sector **management for the public and common good**.

Reforms of Public Administration within the European Union: Why do we need more Ethics in Public Service?*

1. The Problematic Internationalisation of Public Management

1.1 The “Efficient State” as a Leading Idea

Today, the "efficient state" is a model, which does not only mould the continuing modernisation of public administration in the Western World. A consequence of this is the entry of "**managerialism**" in administration and a stronger orientation according to the **results** of administrative acting and to the economic market effects. “New Public Management” builds the paradigm for this development in whose course the well-known bureaucratic pillars of public administration lose their function. Administrative and state reform today is therefore intended to lead administrative acting closer to the "market" and to strengthen managerial ability into public service systems and public bureaucracies. Old structures are being revamped and streamlined. New structures are being superimposed. Competition and incentives for personnel make their entry. In the line of this the past two decades have seen a process of almost continuous reform in public management and a renegotiation of traditional relationships between state, economy and society. These changes have been expressed through privatisation, civil service reductions and restructuring, the introduction of market-type mechanism to improve the delivery of public services, the construction of new forms of partnership between state and non-state organizations, and new types of regulation and accountabil-

* Published in Portuguese language in: Mozzicafreddo, J./Gomes, J.S./Batista, J.S. (Eds.) (2003): *Ética e Administração. Como Modernizar os Serviços Públicos?*, Oeiras/Portugal, pp. 31-46 ; partially in english language in : Lörincz, L. (Ed.) (2000), *Studies on Common European Administration*, Budapest University of Economic Sciences and Public Administration, pp. 81-83.

ity. But at the same time the New Public Management looks like a Loss of Values.

1.2 Conceptual and Practical Problems: Reinventing Institutions and Values?

Reinventing Institutions and Values or paradigm shifting where constituted again and again by attempts to examine the conceptual (and practical) problems, which attend such policy transfers, and to make preliminary judgements about the successes and failure of public management reform under the restraint of the complex reality in states like Korea, Japan, USA and Germany.

In details there are two main problems: The first is, how we can bridge the gap between the different understanding of modern administrative system from the angle of managerialism, the rule of law and the fear to loose the right values in organizations.

For bit by bit, and the development to a Public Management in view, the question of values is going to arise and bringing up the second grave problem: The new bureaucrats, do they really have (and if so, where from?) enough Leadership and Management Values like Openness, integrity and honesty so they can be trusted with public property, moneys, power? Do they follow clear guidelines of partisan abstinence, that means Employment Values as professionalism instead of being in political party line; are they fair and motivated in what they do, human, jealous of their reputation? Are they neutral against the private interest groups?

The mentioned values describe in a periphrastic way the ethos of public service. At the same time, they build its veins to civil society, which are more and more tied up by a strong state (welfare state). Is not the omnipotence of state the ill, i.e. his warranty responsibility? Do we not need, above all, a new philosophy of individual responsibility in the worldwide change of values within civil society? Perhaps it is a matter of ethics, the "New Public Administration" in the 21st century and not a real challenge to becoming less bureaucratic and more entrepreneurial. It seems that Germany tries to find the path.

2. New Public Administration in Germany – Different to „Managerialism“ and Old Fashioned Bureaucracy

In Germany there is today no doubt about the necessity to modernise state and administration. But we may identify in opposition to the international trend the precedence of legally founded strategies over economically based concepts. Although the government is supposed to provide the same services as it does now using business principles, there remains a strong link to the administrative management paradigm with its reliance upon the rule of law – that means public law and the roots of traditional bureaucracy.

If we look more precise to the **German concept of modernisation**, we may recognize the conviction that modernising state and administration is first of all an administrative-cultural process shaped by tradition, requiring the development of an inherent model of searching for a new paradigm in the line of historical experience.

2.1 Modernization as a Process of Rationalisation

One of the characteristics of this process is the strategy of rationalisation inwards and privatisation and deregulation outwards. Accordingly, a distinction can be made between the modernisation of the state as a change in the relationship between citizen and state on one hand; on the other hand there is modernisation in a narrower sense, which mainly deals with the domestic structures of the German administrative system and intends to include entrepreneurial patterns into public administration. This forms the basis of the so-called **“new control model”** which is first and foremost in use in the administrations of municipalities and towns. This model and concept is based on the idea that administration is being changed according to the model of Concerns acting in the private sector and that the administrative action is subject to a market-similar concept. In this transition from bureaucracy to entrepreneurial management the citizen faces these “Concerns” as the “customer”. This is the reason why local government is being modernised into a service enterprise. The underlying orientation toward the customer and quality is being promoted organisationally by creating decentralised institutions of efficiency and responsibility. The control of these administrative centres that have to produce efficiency on a set budget, is achieved with the aid of the ju-

dicial system and controlling. It reflects those pieces of information that are determined by means of calculating costs in relation to productivity.

The aim of this presently occurring rationalisation and the simultaneous introduction of entrepreneurial management techniques is to increase the economical viability of public administration on one hand (“more efficiency”); on the other hand it is hoped that the quality of public administration activities is increased according to the expectations of the citizens. The consequence for the employees in the public sector is that target- and performance-agreements are drawn up. Such a contract management wants to set guidelines or targets and with these formulate the targets to be achieved by the administrative activities and thus ensure their quality. Target agreements and benchmarking are also introduced between individual authorities as well as efficient administrative centres in order to introduce competition-like structures within public administration. After all, the aspiration is the strict functional separation of politics and administration on all levels: The first one is merely meant to be responsible for the strategic targets, in other words the “what” of the perception of responsibility, whereas the administration is responsible for the operative part of fulfilling responsibilities, in other words the “how”.

2.1.1 Internal Administrative Successes of Rationalisation

In this way, considerable rationalisation successes have been achieved. Post-bureaucratic forms of organisations and public service values become more significant; the transition from a bureaucratic performance model to a new decentralised administrative concept is recognisable. This way the efficiency and economical viability of German authorities has been increased. Their attention to service has been advanced.

In the areas of **organisation** one stage of development is the organisational achievement of independence of administrative bodies (“outsourcing”) from the general public administrative body. Alongside is the institution of flat hierarchies and the transition to a public service management that stresses the individual responsibility of employees for a decentralised resources management.

The **process structures** have also changed to a large extent. Here the modernisation efforts concentrate initially on the duration and

lengthiness of administrative processes, especially when it comes to constitutional approval. In reducing legal regulations, environmentally-, business- and structurally-related examinations are expedited. Instead, the investigating boards of examiners are now acting within set deadlines; after these have expired, interim approvals are in force. In addition, the administrative process is linked to a dialogue- and project-management. While the former tightens up communication processes between administration and citizens, the latter means the administrative responsibility to fulfil a defined task within a limited period of time. All in all, these process structures of public administration now make sure that a stronger business process aimed at getting a result prevails, while at the same time taking back the proceeding regulatory connection.

The outlined stages of development finally correspond to the changes in **personnel structures** of the public service. Generally speaking, what these are all about is to accomplish the work of the personnel in line with the above mentioned structural changes. Accordingly, suitable concepts of personnel planning, mobility and development are needed. In other words: a specific human resources management is increasingly valued. It strives for:

- The gradual deepening of a service awareness
- The development of specific incentives to adopt decentralised responsibility
- The preparedness to increased mobility
- The introduction of a contract management.

In the centre of the latter are target agreements between the managers and their employees that state how certain results of work can be achieved constituting supportive measures in accordance with the individual development perspectives of the employees.

2.1.2 Reduction of the State Sector

The reconstruction of the state functions (“extreme rationalisation”) has also moved forward considerably in relation to society and citizens. To mention just a few examples: the first is the reduction of state duties in the areas of the postal service and telecommunications. The required services are now being carried out as a private-sector ac-

tivity by companies (= Deutsche Telecom) that emerged from the special capital funds of the German Federal Postal Services and by other private providers. It obviously has to be noted that in the transition from a state business to the free-market-economy, competition is being created and promoted. This responsibility is still being considered as a governmental duty; as a result an appropriate regulatory authority has been set up.

Numerous preventive measures have been transferred to the private sector in order to safeguard technical, social and public "security". In the area of "interior security" for example, the Federal Government and the States in Germany have given authority to let the private security service providers participate to a far greater extent than previously in guard and protection duties. The security business, therefore, is considered as the future body to maintain the preventive fight against crime and defend against public order offences.

Another example for reducing the state sector is the appointment of self-responsibility of economical enterprises for the protection of the environment that has been introduced in recent years. In this connection, the participation of groups of society is promoted in trying to accomplish the concepts and enforcement of objectives of the ecological policy. For example: the economical law of the ecological cycle and waste disposal which came into force in 1996 grants the producers and owners of waste the possibility to perform the duties of waste disposal as their own responsibility. The formerly predominant public waste disposal, therefore, becomes a "waste economy".

Finally it should be pointed out that the social welfare law in Germany is competition-orientated. Here the shift of state responsibility toward private initiatives during the course of the past few years is also comprehensible. A clear example for this is the legal health insurance, which has institutionalised a competition for members and their contributions. This does not, however, constitute a general "privatisation" of the social law of health insurance. But the legal health insurance considers itself to be introduced as the supplier and the one that makes demands on the markets of health services. The new direction being set is the fusing of private- and health insurance.

2.1.3 *The “New” German Administration*

The outlines of a “new” public administration in Germany begin to appear before this background, in which effectiveness and efficiency have gained a far higher standing than previously. At present the independent image of the **administration manager** emerges in Germany. He forms the opposite to the “organisational ruler” of traditional bureaucracies who has acted according to the ideal type created by **Max Weber**. Today it seems in contrast, the post-bureaucratic administration has come to the fore.

In any case, **post-bureaucratic forms of organisations** exist amongst others in the preferred development of project management and teamwork within the up to now hierarchical structures of the ministerial- and local administration. Furthermore, the previously substantial administrative bodies have been reduced on all administrative levels and have been decentralised in a new manner. In this way the main objective of modernisation, which is the “orientation toward the citizen” within public administration and at the same time making a connection with the citizens’ commitment, is implemented. The transformation of governmental and local administrative institutions into independent civil-law societies, furthermore, holds a large proportion of the changes in public administration. This applies to postal operations, to the entire telecommunications sector, the railway and also, but mainly on a local level, to the hospitals and also previous economical enterprises of the municipalities. Even the German Federal Armed Forces have created a civil-law society for procuring military equipment.

2.1.4 *Provisional Appraisal*

Altogether far-reaching changes of the decision-making processes in public administration, its organisational structures, the administrative procedures and its personnel structure can be noted. Accompanied by this is the often budget-controlled production of services. Even the audit offices have been included into this change. They move from “courts” to “auditing organisations”.

A second line of development is made clear by the now widespread use of information technology and the transition to using this in constituting “data warehouses”. With this, a new level of information

is achieved for decision-making and communication amongst the authorities and also with the citizens. As a consequence, all this shows a deep change of the structural condition of public administration: “The whole machinery is changing”. Nevertheless, the key question remains: What is the real outcome of these changes? Is it merely about a rhetorical disguise of customary promises of reform? How are the results of the change to be characterised? In my perception the best way to achieve this is by stressing the four key objectives of the changing process again:

- (1) The previous efforts in Germany show that it is not only about saving money, but that a **better “performance”** of the administrative activity is prominent.
- (2) If you look at the **process of changes**, a conflict seems to emerge between clientele- and customer-orientated modernisation and performance improvements on the part of administration. The crucial question is whether the citizens’ expectations of quality have been met by the increase of “performance”. Has the trust of the individual in the efficiency of public actions been strengthened by this?
- (3) Until now an on-going change of administrative structures can be noticed in Germany. However, the unsolved question is at present, whether it really is about a change of **administrative structures** in Germany. That, nevertheless, requires wide awareness of those responsible that such a cultural dimension of public administration does indeed exist.
- (4) Finally, the question arises whether such a **market model** of public administration has been created or whether merely a constellation similar to that of a free market exists from which modernisation in its entirety takes off. The decision for a market model would formulate the judgement of the expected results of the reform efforts differently. It can now be said that at least new types of information have been gained, for example from the benchmarking via specific agencies.

2.2 Structural Conditions and Limitations of Modernization

Beyond these research tasks, imminent structural conditions and limitations must not be overlooked. Moreover, the specific conditions by which reforms of state and administration are integrated, have to be

considered. In view of them **my thesis** is, that there is no real possibility to bring in a principal change of administrative structures in Germany because they are established in the texture of its constitution and the roots of Max Weber's type of bureaucracy.

2.2.1 Germany as a Social Constitutional State under the Rule of Law

First of all, the **responsibility for a social state founded on the rule of law** in accordance with the constitution, the historically grown **administration culture** and the **development process** come to the fore **in Europe**. Even the latter integrates Germany as a member-state of the EU into the process of Europeanization of state and administration.

The point of reference in any governmental and administrative modernisation process in Germany remains the democratic constitutional state which makes all governmental actions dependent on the principle of social justice, equality, transparency, freedom of the arbitrary use of power and corruption as well as the neutrality of state administration. It controls the task as a whole of public administration within the context of separation of powers as far as laws are concerned. The administration itself is subject to the principles of action of legality, expediency, economical viability and orientation toward the public or common good of the administrative actions. In all of this, the principle of legality forms the constitutional basis and guideline for all administrative actions.

Obviously the task of action of public administration goes of course beyond that. Public action is subject to a multitude of further and also different tasks, which is why there is an on-going dispute amongst German authorities concerning the aims, results and consequences (risks) of administrative actions. This mainly applies to complex service responsibilities. The art of public administration lies in balancing the conflicts that result from the simultaneous use of varied responsibilities.

Due to and in view of the complexity of the related problem to optimise, the demand that administrative activity quite simply requires organisational-institutional simplification in accordance with an appropriately circumstantial increase of the process, has to be repudiated in the present debate about modernisation. It is because of the system of processes that it is possible to balance the underlying con-

flicts of the variety of targets and the openness of administrative actions.

2.2.2 The Peculiar Nature of "Public" Administrations

The outlined "inner" legal connection separates quite apparently public administration and its activities from that of private-sector enterprises. Of significance is the rationality of each system: As far as public administration is concerned, the public or common good is given priority in carrying out the duties. Entrepreneurial service activities of public administration are, therefore, always a **management for the public or common good**. It is subject to the priority of the legal system. There is no chance to be permitted to opt out of the legal framework by changing over to management techniques. Therefore, there cannot be any success in controlling the public sector "just as well" as this could be achieved by a private sector business. The control of the system by legal means for the public or common good cannot be replaced for public administration. However, this obviously does not rule out the approach to bring the above mentioned rationalisation processes within the context of modernising state and administration as closely together as possible to the economical criteria of rationalisation.

2.2.3 Limitations of the Concept of Modernization

The limitations of the **new control model** in Germany are recognisable in this context. Fundamentally the question arises whether public administration is in the least structured as a Concern of the private sector. It is, furthermore, doubtful whether the citizen may (exclusively) be viewed as the customer in this relationship. This seems to be more than questionable, especially in areas of administrative intervention in a democratic society. Additionally the model of supply and demand is inappropriate in the area of public administration as far as matters of the public and common good are concerned. With the introduction of setting budgets and controlling, it has, furthermore, to be considered how to deal with the failure to comply with the budgets. The debate about modernising the social health insurance at present taking place in Germany shows that in this respect the rationalisation of health services is looming. This phenomenon is also in the USA a known fac-

tor. In general, the questions of allocating responsibility in order to achieve targets and ensure quality are of great importance. Nevertheless, these questions do not change the fact that the new control model has to be considered as an innovative impulse for the modernisation of state and administration.

This applies regardless of having made the observation that already now – and after only having made partial use of the tools connected with the control model – inconsistencies appear in the administrative procedures. So the control model promises to reduce “red tape”, but it increases – by means of reporting and controlling – to a great extent the bureaucratic processes in the decentralised administrative units. The intention to increase “performance” is faced by the determination of administrations to save money and has in many places consequences for the attempted quality of services. This creates a conflict between politics and management in trying to achieve set targets. Furthermore, the application of the control model promises an increased administrative flexibility which, however, is faced with the problem whether the citizens as “customers” of administration trust sufficiently in its efficiency. “Trust”, however, is an indispensable public service value. Other inconsistencies are known, one of which being the conflict between specialisation of the agencies versus the costs of co-ordinating the activities; another one is the relationship between decentralisation and co-ordination and finally the task to inter-link the efficiency, increased by the autonomous responsibility of the administration managers, to corresponding responsibilities of the employees.

3. The Difference in Systems – or: Theories are Making Differences

3.1 The Difference in Systems: „Managerialism“ versus „Management for the Public and Common Good“

Obviously there is a principal difference between the international trend in Public Administration to imitate the managerial style of private sector organizations and attempting to make government function more like a business on the one hand and the concept of modernisation in Germany respectively the Continental-Europe States on the other. In the Anglo-American way of restructuring public organizations,

on which it is also about the internal rationalisation by focusing on their internal dynamics, „entrepreneurial“ management remains predominant. This involves „creating a government that works better and costs less“ (Al Gore).

The conception is traditionally closely inter-linked with the conviction „that the study of administration should start from the base of management rather than the foundation of law“ (Leonard D. White). One might consider this as being in contrast with legality and managerialism, but I consider this as being incorrect. It is more crucial to look at the effects of such an understanding of „good governance“. The costs of such a managerialism, alienating the ideal of the public and common good, are immense, as the example in wide parts of the USA shows. It is also far too simple to make principles founded on the rule of law responsible for the deficiency of modernisation.

3.2 Theories are Making Differences

3.2.1 New Public Management as a Law Ruled Governance of Justice

That perception leads us to the role of theories for modernising Public administration systems. First of all, it is the theory of Social and Economic Organization, the late Max Weber with his design of an ideal type of bureaucracy has elaborated. His classic model of organization was influenced by traditional elements of continental European and, in particular, German administration. It did not fully reflect the administrative reality of Weber's time, for it was created as an ideal type in order to contrast deficiencies in the administrative practice that he himself had experienced.

As time goes by, an enlightened understanding of this bureaucratic model shows its advantages as well as its disadvantages concerning the results of „good governance“ and a more efficient and effective public administration. On the one hand, the efforts of bureaucratic authorities may be more successful because of maintaining unity of command and coordination of administrative activities. At the same time, the bureaucratic manner of the administrative procedure and the bureaucratic structures of internal organisation ensure uniformity and legal control. Further, a high, graduated functional specialisation increases the efficiency and productivity of public administration concer-

ning the performance of public tasks in routine. And, finally, the impersonal relationship guarantees an impartial treatment and objective judgement for all citizens.

On the other hand, the bureaucratic model of public administration often blocks initiative of civil servants at individual level and also participation of citizens in administrative decisions. Particularly due to centralisation of decision-making, there is hardly any scope for civil servants to feel responsible in lower levels of hierarchy. Instead, the bureaucratized administrative procedure leads to a system of rules and regulations – applying useless procedures accompanied by red tape. With regard to the intended specialisation of functions, the bureaucratic model further impedes closer communication between specialised units resulting in growth of parallel authorities and rise in the costs of coordination. Finally, the impersonal relationship of bureaucracy results in paying insufficient attention to the rights and needs of individuals.

Indicating these advantages and disadvantages of the bureaucratic model, it becomes apparent that its effectiveness depends highly on the specific nature of public tasks and administrative functions to be carried out. That's why the model struck its roots at a time when prime tasks of the state were to keep up law and order and to ensure that internal and external peace and security of that society had to be upheld.

Since then, however, the state's role and tasks have developed in different directions. Especially through the emergence of the welfare state, administration has become deeply involved in the financial and social affairs of citizens and, as an undesired result of this development, we are confronted with increasing alienation of people because of the growing power of bureaucracy. Nevertheless, the bureaucratic public administration is playing a key role in developing the infrastructure of nations and regions. The administration's activities and involvement allow the pooling of national resources over centuries to carry out economic development and operationalisation of social, technical and transport infrastructure in the form of roads, railways, ports, airports, electronic media and also info-technic structures as well as development of social welfare.

So, in fact, there is no reason to discard the "bureaucratic model" totally. And, apart from reconciling with the idea that bureaucratization of society is our destiny, I presume that the bureaucratic model of

public administration and governance is also a valuable and an indispensable tool of the modern state. Of course, it has to be developed according to the change of law, tasks and functions. For public administration is moulded by its prevailing political, social, economic, technical and cultural conditions. But the problem is: How to involve a new model for public organizations?

At that point, the design of organizations in their environments and focused on their internal dynamics steps forward into an economic dimension. For Government's primary mission in society is to serve the public purposes as they have evolved from societal needs and popular expectations. The question is how to secure fulfilling by a creative and efficient organization?

Again the answer bases on economic theories of organization. Following them, in the 1980s and 1990s a growing number of countries introduced a wide range of management reforms. The main objectives therefore were to bring about efficiency in the public sector by giving departmental heads more autonomy and responsibility for managing departments and holding them accountable for their performance. Along this way and in response to the rapid globalisation of the economy to maintain international competitiveness, different countries used different approaches to clarify and increase public managers' accountability for results in exchange for managerial flexibility in the use of resources.

That is a major attack on the administrative management paradigm with its reliance upon public law and traditional bureaucracy. For the entrepreneurial understanding does not find its base in law, while – as described – the administrative management addresses problems at the institutional and legal level. Nevertheless, in the Continental-European countries more or less the management by rules and through hierarchy continuous to be a prime element in public actions. That is why, on the one hand, in Germany and most of the European Union member states the connection of public administration to the rule of law is essential. The legal system takes precedence over "functional order". System control is achieved through its connection with the law in accordance with the public and common good. Administrative managerialism ("Public Management") means in that sense the management for the public and common good.

Responsible for the law bounded Public Management seems to me not at least the Theory of Justice by John Rawls. As it is well known,

that theory is essentially a form of contractarianism: the principles of justice are what rational persons would unanimously agree to if forced to choose under a set of constraints definitive of what Rawls calls the “original position”. Briefly put, his basic contention referring to this is that it must embody a set of constraints that are appropriate if the choice of principles to be made therein is to reflect the nature of the parties as rational, moral, free, and equal.

3.2.2 Public Management for the Common Good: A Third Way

Those basic principles determine the structure of society (and of Public Administration), that means there must be rules and institutions which assign fundamental rights and duties, and determine the proper division of advantages and disadvantages arising from social cooperation. From that point of view the main efforts have to be applied to the development of a “public service” in principle, that is, the development of a public sector having its major interest in the creation and safeguarding of a social democracy under the rule of law. This implies making sure of the role of the State in favour of public and common good. Consequently there has also to be a dichotomy between the public and private sectors and no sector blurring. So the basis for the distinctive character of the governmental and private sectors is to be found in legal theory, but not in economic theories.

At the same time it is precisely not about the contrast of management and legality because the law of the modern, social and democratic state, founded on the state constitution, allows wide areas for effectiveness and efficiency with a specific direction. Rightly it seems to me, therefore, that in Germany the concept of modernisation is indebted to the motto of the social administrative state, that being not to grant any rights without responsibilities, but conversely to count on behaviour-forming powers of social institutions.

In addition to this the principles of individualism and fair distribution of goods, which are fundamental rights in the Constitutional State, are important. Individual persons ought to be given an opportunity to help the least advantage in society, and the state ought to impose on society an obligation to do so. There should not exist a minimal state.

In front of this background only a modified bureaucratic model seems to be able to connecting the challenges of the rule of law and

the social state with the public sector organization. That is why there doesn't exist a possibility to pass the bureaucratic administration. And that is why we have to search, more than ever in our European countries, for the right way to modify Max Weber's theory on bureaucracy from the angle of the New Public Management Approach. It's in other words a third way we have to search for, that takes the course between the pure "economization" of Public Service and the old fashioned bureaucracy of Max Weber.

4. Reforms of Public Administration as a Question of Values

After all, law is more than a governance impulse. Legal governance is text-bound. The authorities entrusted with the rule application listen to the addressees and explain themselves. The discourse reminds the addressees of normative expectations. It also provides them with an opportunity to raise concern about the adequacy of the rules. In the terminology from Albert O. Hirschman, it thus serves as a voice mechanism.

From this point of view the question of values is going to arise. New Public Management may generate greater efficiency in the delivery of services, but the precedence of economically based values over legally justified values is evident. It will threaten the equally important cultural values for serving the public interest; and equality in freedom can be decisive for establishing the legitimacy of government. For the moral imperative of individual autonomy, embodied in the Kantian-Rawlsian perspective on social order, cannot be reconciled with the utilitarian presuppositions that inform normative applications of modern economics. It may be, if we have a closer look to the managerialism, that it is incompatible with a rights-based legal order and is bound to promote unjust and arbitrary redistributions.

It is not by chance, that within the administrative culture of managerialism the above mentioned values vanish very fast, as case studies on the development of public service in Great Britain and Germany show. At the same time, professional autonomy in Public Administration decreases. Or in other words and let me give a citation: "It looks as though tomorrow's white hall manager will know the cost of everything, but the value of nothing". So it is probable that the new paradigmatical supposition that competition is profitable also leads on the

wrong track as the out-of-date bureaucracy of Max Weber. The citizens may lose their trust in Government.

Therefore, ethos and ethics in the activating state will again have a special worth in future, because as a result of the thinning out of administrative law respectively as a result of the deficits in the managerial code of conduct for civil servants there are no rules in the sense of values for their behaviour. For this reason the ethics in public service has the function to provide operating principles and standards or let me say “values” for administrative acting in certain fields of politics and in a task-specific modified way. In this context especially the aspect of political neutrality plays a special role. Certain restrictions of the party-political activities should be imposed on civil servants and they should be endowed with a professional autonomy as workplace and people ethics. Therefore, for example, the assignment of leading positions limited in time is contra-productive.

4.1 Loss of Values in the Entrepreneurial Bureaucracy

Today the insight is growing slowly, that this commitment to a specific ethics and to a publicly discussed and consented ethos is all the more necessary in public service as the traditional role of civil servants in the European states as independent and impartial advisors has become a victim of the currently ruling “culture” of New Public Management. The dangers of this development are obvious. They arise from the Economics of Minimalist Government on the one side and the continuing politisation of Continental and British administration on the other. Not by chance it is no longer possible to distinguish between the decision functions and the political role of top executives. This is a result of the general reorganisation of the frame of reference of public service and the reform of the organisational and ideological culture. Everywhere and step by step a public service will develop which is more forced to follow the political will of governments than to follow the conditions of social efficiency and rentability. At the same time introduction of methods of New Public Management “misses the goal” more and more to create real professional managers in the public service. Instead of it, political control over civil servants and in this way impartiality and nepotism etc. are to be achieved.

4.2 The Need for “new” Public Service Values in the Activating State

Therefore, a new ethics in public service is unrenouncable. Its core is first to reconcile traditional public service values with “new” values arising from new approaches to improve the administrative organization and managing public agencies, including ethics based on private sector experience. Amidst them it seems inalienable, to establish as a Leadership and Management Value a “Personal Public Integrity” (PPI) for the leading managers as well as the other personnel. For the citizens public service has to become the state’s bastion of trust.

Although public service finally has to put into action the political prescriptions of the political guidance, it has to claim at the same time that civil servants have to keep their integrity and not to follow guidelines of the political leadership that could damage it. Because the responsibility of a civil servant has to be beyond the more limited interests of each officiating government.

5. Summary

In my paper, I argue that modernising Public Administration is confronted with two major challenges, connected to each other. On the one hand there is a struggle between the law bound Public Management and the entrepreneurial spirit of leading public organizations like private enterprises. But as the paper in contrast to the international debate on Public Management shows, Public Administration is no enterprise of serving and protecting the public, but a government organization, which is entrusted the management for the public and common good. The sources of this understanding are the Theory of Justice (Rawls) and the modified Weberian Theory of bureaucracy. Or in other words: It is the theory on which depends the way of modernising Public Administration.

On the other hand there is a struggle on Ethics in Public Service, because of Administrations, which become less bureaucratic and more entrepreneurial, seems to loose the values of political neutrality and professionalism. But the ethic performance and morality of the bureaucracy is of particular importance. To avoid the loss of values in midst the conflict between the minimal and the social state, it needs to reconcile traditional public service values with “new” values arising

from new approaches to organizing and managing public organizations. Again the role of theory seems to be important: The success of public sector reforms is not at least a question of taking careful and systematic account of their value implications. Otherwise New Public Management may fail because of loss of values in public action.

Professionalism in Public Administration. An Indispensable Value for Restructuring Public Administration*

1. Challenges for Restructuring Public Administration

1.1 The “Efficient State” as a Leading Idea

Today, the "**efficient state**" is a model, which is leading the ongoing modernisation of public administration. A consequence of this is the entry of "managerialism" into the Civil Service and a stronger orientation according to the results of administrative acting and to the economic market effects. "New Public Management" builds the paradigm for this development in whose course the "old fashioned" bureaucratic pillars of public administration lose their function. Administrative and state reform today is therefore worldwide intended to lead administrative acting closer to the "market" and to strengthen managerial ability into public service systems and public bureaucracies. Old structures are being revamped and streamlined. New structures are being superimposed. Competition and incentives for personnel make their entry in the public services.

This process is confronted with two major challenges, connected to each other. On the one hand there is a struggle between the law bound administration and the entrepreneurial spirit of leading public organizations like private enterprises. With regards to this and in contrast to the international debate on Public Management I want to adhere to the fact, that Public Administration is not only an enterprise of serving and protecting the public, but also a government organization, which is entrusted the management for the public and common good. The sources of this understanding are the Theory of Justice (Rawls) and the modified Weberian Theory of bureaucracy. Therefore

* Keynote Lecture on Tuesday, December 16, 2003 in Sarajevo/Bosnien-Herzegowina to the UNDP/InWEnt-Workshop "Perspectives for Advanced Training of the Civil Services – A Contribution to Strengthen Public Administration of Bosnia and Herzegovina".

we have to reconcile the traditional public service with those challenges arising from new approaches based on private sector experience.

Therefore we should take careful account of the value implications of reforms. If we do so, we will notice on the other hand that there is a struggle on Ethics in Public Service, because of Administrations, which become less bureaucratic and more entrepreneurial, seems to lose the values of political neutrality and professionalism. This is namely a real danger for those administrations which become politicized. In any case ethical performance and morality of the bureaucracy is of special importance. To avoid the loss of values amidst the conflict between the minimal and the social state or the political and the professional administration, it needs to remember at the “old” values of a traditional public service, like political neutrality or fairness, and to bring them in an all-day code of conduct with the “new” values arising from new approaches to organizing and managing public organizations. Or in other words: The success of public sector reforms is not at least a question of taking careful and systematic account of their value implications.

Professionalism in Public Service as an Indispensable Value

Public service values have been classified in various ways. One of the categories in such classifications are **professional values**. “Professionalism” in Public service means on the one hand a high degree of competences in delivering quality service. On the other hand professionalism in public administration embodies the responsibility for the specific mode of conduct in the public field.

Professional values in the sense of **competency** include such characteristics of high-performing organizations as a focus on the customer’s service, a strong strategic vision, continual benchmarking and performance improvement as well as an emphasis on results in a competitive environment. This classification goes along with the emergence of **democratic** values like impartiality and the rule of law, but also with **ethical values** like integrity and fairness. Sure, a few values fall into more than one category; so means “accountability” as both an ethical and a democratic value. And “excellence” is as both an ethical and a professional value.

Keeping that in mind, we may identify some of the qualifications a talented public servant has to have to join expanding and progressive

organization in the public sector to become a key member of a unit management:

- Identifying areas of improvement in efficiency and operational effectiveness within finance and other working areas within the public administration
- Ensuring the accurate and timely delivery of all services and management informations
- Driving or being part of an improving and capable team in each unit
- Developing the IT infrastructure in line of cost effective solutions and administrative policy
- Co-ordinating the work of the local authorities with the Head Office.

1.2 Professionalism in conflict between accountability for results and the rule of law

On this way public servants seem to be relatively more accountable for results than for the process. But it will be a misunderstanding, to lead for that reason the focus on values as a possible alternative to rules, directives and guidelines. On the contrary, restructuring public administration needs communication as a process and rules and institutions which assign fundamental rights and duties, and which determine the proper division of advantages and disadvantages arising from social cooperation. From that point of view the main efforts have to be applied to the development of a “public service” in principle, that is, the development of a public sector having its major interest in the creation and safeguarding of a social democracy under the rule of law. This implies making sure of the **role of the State** in favour of public and common good. Consequently there has also to be a dichotomy between the public and private sectors and no sector blurring. So the basis for the distinctive character of the governmental and private sec-

tors is as well to be found in legal theory as in economic understanding.

At the same time it is precisely not about the contrast of management and legality because the law of the modern, social and democratic state, founded on the state constitution, allows wide areas for effectiveness and efficiency with a specific direction. Rightly it seems to me, therefore, that in Germany the concept of modernisation is indebted to the motto of the social administrative state, that being not to grant any rights without responsibilities, but conversely to count on behaviour-forming powers of social institutions.

In addition to this for the public administration the principles of individualism and fair distribution of goods, which are very fundamental rights in the Constitutional State, are important. Individual persons ought to be given an opportunity to help the least advantage in society, and the state ought to impose on society an obligation to do so. There should not exist a minimal state.

In front of this background in most of the world's countries only a modified bureaucratic model seems to be able to connecting the challenges of the rule of law and the social state with the public sector organization. That is why there doesn't exist a possibility to pass the bureaucratic administration. And that is why we have to search, more than ever in our European countries, for the right way to modify Max Weber's theory on bureaucracy from the angle of the New Public Management Approach. It's in other words a third way we have to search for, that takes the course between the pure "economization" of Public Service and the old fashioned bureaucracy of Max Weber.

Therefore, a new Professionalism in public service is unrenounceable. Its core is first to reconcile traditional public service values with "new" values arising from new approaches to improve the administrative organization and managing public agencies, including ethics based on private sector experience. Amidst them it seems inalienable, to establish as a Leadership and Management Value a "Personal Public Integrity" (PPI) for the leading managers as well as the other personnel. For the citizens public service has to become the state's bastion of trust.

Although public service finally has to put into action the political prescriptions of the political guidance, it has to claim at the same time that civil servants have to keep their integrity and not to follow guidelines of the political leadership that could damage it. Because the

responsibility of a civil servant has to be beyond the more limited interests of each officiating government.

2. Personnel as a crucial factor to professionalize public service

The prerequisite for a strategy that meets future challenges on Professionalism is, therefore, a **personnel management** that is integrated into the national modernization policy. In order to ensure its success, it is not sufficient to pursue a mere „staff administration“, to limit oneself to the operative, every-day business and to view the personnel management as a subordinated component of program- and organization-strategies in the discharge of public tasks. Such a conventional personnel management is rather short-term, re-active, future-blind and hostile to innovations. Its limitations become ever more evident in the light of the globalization trends we are presently witnessing. These and other changes in the environment of an administrative landscape, which is also transforming, impose new demands on the administrative staff and the executives.

Future personnel management must therefore focus on further-reaching questions: Which needs of adaptation within the administration result from its commitment to **superior** objectives of modernization, such as global competition, technical progress, the cutback of the Welfare State and at the same time, from the rise of **new values** in a broken society? Which conclusions have to be drawn with regard to the strategies of personnel management? What must be done today in the field of personnel if we are to meet tomorrow's challenges? In which new directions should we go, in order to develop the model of a personnel-oriented administrative restructuring that could ensure, in the long run, a personnel management that is both professionally sound and socially efficient?

We may try to find the answers to these questions in the **Human Resource Management**. But even if we proceed to an „employee-oriented personnel management“, which provides different personnel strategies for a new work organization, we still need to adjust the relevant parameters to the superior modernization objectives of public administration. Moreover, the now-discernable change in the administrative landscape has to be shaped on the background of the debate on “old” and “new” values into a guideline for the restructuring of personnel management. The development of executive personnel – or its

„coaching“ – then results from the elaboration of professionalism in public service and simultaneously contributes to the administrative modernization.

3. Model of a personnel-oriented administrative modernization

The starting point for the changing process is the proof of so-called „superior modernization objectives“ for the public administration. They entail strategic consequences for the personnel management, which has to attain a correspondent **employee-orientation** as well as a modified **development concept for executives**.

3.1 Superior modernization objectives and changes in the administrative landscape

The superior modernization objectives that will be subsequently denominated are not only due to the idea of an “efficient State“ or other concepts of modernization currently used by Anglo-American scholars and practitioners. Rather, these are only instruments of a paramount totality of objectives, which, on its part, refers to the **five modernizations of public functions** in the Welfare State.

On one hand, the new definition of the relationship between State and society, in particular the economy, with regard to the global economic development, belongs to these modernizations. The general cutback of the Welfare State that becomes discernible is in a specific manner reciprocal to the wide-spread strengthening of individual and social responsibilities in the Western industrial nations and their “civil societies”. It is largely caused by the rise of new values that can be observed in all societies on this planet.

On the other hand, the new relationship between State and society, the cutback of the Welfare State as well as the change of societal values are mirrored in the changes of the administrative landscape. For this matter, the pluralization, europeasation and internationalization of national administrations on the one hand, the citizens’ expectations of an increased service commitment of public agencies on the other, are to be named as basic directives of internal rationalization. The discussion of these superior modernization approaches reveals

several guidelines of a personnel-oriented administrative modernization.

3.1.1 New definition of the relationship between State and civil society (market)

Nowadays, the model of market economy has not only deployed a world-wide attraction that obliges to a gradual repudiation of state-controlled economy. The dynamics of market economy have also induced global pressures that create incentives to modernize and to render competitive the national economic, environmental, social and administrative policies: today, „globalization“ is one of the fundamental challenges to the competitiveness of national economies. This trend entails the need for a highly differentiated „new“ partnership of economy and State, which in certain ways is opposed to the previous functional differentiation of State and economy. One does not need to be an adherent of the industrial policy recommended by the French in the European Union, to be able to recognize that a new interlocking of State and economy belongs to the essentials of modernization.

In the course of this „interlocking“, strategic consequences for the **personnel management of the public administration** become evident: In the long run, it has to ensure—on the part of the State—the successful reciprocity of State and economy in the future. This is done on one hand by specific strategies of personnel selection and of staff exchange. The public administration has to select those executives who dispose of abilities and capacities such as strategic thinking, cultural sensitivity, preparedness for teamwork and international cooperation, but who also are willing to take risks and introduce change.

On the other hand, with regard to the development of material criteria of administrative rationality, we also need executives who have acquired proper work experiences in the essential administrative processes of different branches. For this, it is necessary to provide appropriate working opportunities in overlapping positions, in positions in international projects or else in positions in foreign countries with a defined perspective of development and promotion. The exchange of personnel between public service and private enterprise must become a current practice. Experiences that have been acquired in the private economy should be especially rewarded by designating greater compe-

tencies and paying a higher salary once the employee has returned to the public service.

These remarks already point to another typical feature of the future relationship between State and economy, that is the necessity to **learn** from each other – while the respective functional characteristics continue to exist. The corresponding efforts of learning will result in a **new work organization** in the public administration: team-work and tele-work, flat hierarchies and project organization, cooperative administrative procedures and virtual administration. Compared to the present situation, different strategies of personnel management emerge. We have to develop systems of remuneration that take into account differences in performance, and that suit the new structures of work. The joint shaping of the future work organization along with an effective personnel development in its components „selection“ and „promotion“ are the keys if we really want to bring to flourish the potential of our efficient and devoted co-workers.

3.1.2 Cutting back of the Welfare State while strengthening individual and social responsibilities

The globalization of the market economy inevitably results in a reduction in the State's role in the national economy. This reduction is connected with a critique of the public tasks. As its result, the legal responsibility for action shifts from the public sphere to the private economy, the Welfare State has fewer responsibilities than before. Public offers of supply services – from garbage disposal and nursery-schools to the warranty of security in public facilities – give way to private offers. A new partnership between public and private service providers emerges. The corresponding decrease in public responsibilities and commitments („lean State“) turns out to be the „infrastructural“ prerequisite for the international competitiveness of the national economy. **Deregulation** and **privatization** are the guidelines of a correspondent legal and administrative modernization.

What emerges here could perhaps be characterized as a „distant“ or „dissociated Welfare State“. This new arrangement not only entails the already reported changes on the organizational and procedural level. It inevitably also causes a dynamic and permanent alteration of the requirements on all employees, that is, on the „personnel factor“. The altered commitments of the public sphere to rationality are like-

wise reflected on the **level of personnel** by a willingness to assume **decentralized responsibility** in the discharge of duties and to establish a citizen-oriented quality management of administrative acts. As a consequence of this development, vertical hierarchies within the public authorities are reduced and centralized responsibilities are disbanded. At the same time, this process is linked to a crucial challenge to the managerial staff: having proper initiative and taking responsibility for its own decisions while simultaneously delegating decisional competencies become the prerequisite for successful managerial leadership.

3.1.3 Rise of new values in society and administration

The reported change of administrative responsibility combines with the **rise of values of self-actualization**, which took place in the Western societies during the last decades. Modern societies depend more than ever before upon individual initiative, devotion and „motivation“ of their citizens. As a matter of fact, the „subjectivist“ pretension, as it is expressed in this change of attitudes to society and solidarity, has since long been frequently accepted by the State and has been transformed into a greater degree of co-responsibility of the citizens in the shaping of social conditions.

Basically, this development, which not only affects Western nations but simultaneously the societies of other regions, too, implies neither more nor less than the transition to a new understanding and a new concept of the State. Accordingly, the **conditions of state integration** must be newly defined everywhere.

Thus, „self-actualization“ as a key-concept of modernity refers to changes of social attitudes and behavior, which cannot be insignificant for the public administration. It is necessary to take account of these tendencies of subjective self-actualization in the definition of public competencies – as its result, a broad range of **cooperation between State and citizens** will be established. **Value conflicts**, that is arguments about the extension of the responsibility shared between State and citizens, will then be inevitable. In any case, as an outcome of the reciprocal effects of self-actualization, social responsibility and state commitments, a re-designing of the present image of the State governed by social principles and the Rule of Law, as well as of its legitimization is to be expected.

In this situation, the public administration is in need of strong **personalities** as high contributors, who dispose of the capacity to „process“ the shown indistinct developments into an agency cooperation. The present personnel policy in the ministerial administrations in the Federal Republic of Germany barely meets this requirement profile.

3.1.4 Administrative pluralization and internationalization

A second cluster of superior modernization objectives that has consequences for the personnel management results from the tendencies to internal rationalization in the public sector. The dismemberment („pluralization“) of public authorities numbers among them. Since long, we are not used to talk any more of an administrative **unity** in the Federal Republic of Germany. Rather, just like in big corporate groups, we deal with an heterogeneous compound structure of executive bodies and administrative agencies, in which administrative objectives and strategies are refracted in manifold ways. Moreover, the division of the German state structure in the federation, the federal States and the municipalities entails a vertical administrative decentralization.

In this situation, a uniform personnel development is neither possible nor useful. Rather, manifold strategies of personnel development are necessary in order to meet the different needs of the front-line management as well as of the respective federal, state and municipal levels. The European practice of administration joins this picture. If we are willing to consider the administrative system of the Federal Republic of Germany as a „combine“, than wide-spread **intercompany** career opportunities in the public service indeed have to be offered, too. The personnel management therefore requires a personnel development that is characterized by compatibility within the administrative combine and by transparency for the respective staff manager.

This development is superseded by an extensive **internationalization of administration**. The engagements brought about by treaties on economic, social, environmental and infrastructural as well as on other fields have entailed the need for an „outward“, that is supra- and international orientation in numerous national administrations. Two examples may suffice: The establishment of the World Trade Organization (WTO) has created a situation in which the required adaptations in particular sectors such as services, environmental standards, social standards, etc., have entailed corresponding structural modifi-

cations in the respective national laws and administrations – for instance in economic law and economic administration, in environmental law and environmental administration or else in the patent law and patent administration.

Public administrations in the Federal Republic of Germany make the same experiences with the European Union (EU). The priority of European law with its manifold phases of origin, decision making, implementation and enforcement at the national level has brought about a continuous and increasing „Europeanization“ of German administrations in the federation, the federal States and the municipalities. Moreover, the process of European integration requires a change in the administrative sectors in order to promote the European policy of market economy while simultaneously stressing social coherence and the continuance of national interests.

This is why the **personnel management** has to prepare young executives in time for the assumption of responsibility related to trans- and supranational matters. Accordingly, the necessary international experiences have to be imparted to them. In this process, front-line management tasks and governmental functions should appropriately alternate and complement each other. As to the **personnel selection**, this demand of the personnel management means that not only executives, but rather as many public employees as possible dispose of good language knowledge, show mobility and bring along with them the readiness for international assignments.

3.1.5 In the reticule of internal rationalization: Professionalizing public service management

The internal rationalization of the public sector for the purposes of effectiveness and efficiency nevertheless should not forget its origins, which lie – a look at the „Max-Weber-world“ still tells us so – in the commitment to serve the citizen. Thus, the liability for a **public service management** also belongs to the superior objectives of modernization. Such a public service management will also in the future differ from the free-market production of material goods.

The **citizen**, as the bearer of demands and needs, obviously participates in the production process in a fundamentally different way than a „customer“. The administrative management as a „public service management“ has to sufficiently take into account this difference.

The same is true for the personnel management: the required closeness of services to the citizen and, for that purpose, the transition to an overall quality-orientation along with a corresponding steering of business processes demands employees that are prepared for dialogue with citizens. Accordingly, the personnel development has to promote the ability to direct communication and to strengthen the readiness to adopt role-appropriate styles of working and thinking. Of course, in this context the matter is once again the designing of the future work organization. Personnel development and organizational development are indeed inseparable in the Human Resource Management.

3.2 Personnel management in the environment of a changing administrative landscape

3.2.1 Modernization objectives as a challenge to professionalism in personnel management

The preceding explanations have shown that the five specified modernizations of the public sector represent a fundamental challenge to the personnel management. They entail strategic consequences, which refer to personnel policy, personnel recruitment and personnel development as well as to the design of the work organization in public agencies and administrative procedures. As shown, the discussion of these relationships produces results that can give answers to the initially asked questions. At least the direction becomes discernible as to the needs of adaptation for administrative personnel and executives that result from the base-lines of the modernization of State and society.

On one hand, this process of adaptation embraces on principle all administrative employees. On the other hand, this process imposes particular demands on the **managerial staff** of public administration. The question is, above all, what kind of **management resources** are required if the managerial staff is supposed to be the moving power of administrative modernization. Nevertheless, I would like to warn against separating the discussion about such a development of management resources from the general development of human resources in the public administration: „to lead“ and „to be led“ is a mutual process, in the course of which the success of managerial leadership – and thus of administrative modernization – has to be achieved above all from the point of view of those who are „led“, and is deter-

mined by their perspective. Only if the co-workers realize the working objectives that have been fixed for the future, the administrative modernization will progress. The discussion about the development of management resources is therefore also and first of all a matter of the **employee-orientation** of personnel management.

3.2.2 *Employee-oriented personnel management*

3.2.2.1 Effect-orientation

In the environment of a changing administrative landscape, the realization of the five modernizations requires, in other words, an „effect-oriented personnel management“. Government, administrative and managerial staff as well as personnel representative bodies as bearers of „co-determination“ in the public administration have to be jointly integrated into wide-spread promotion, coaching and personnel development activities.

As its consequence, this requires to ensure the personnel development in the long run by company agreements (or labor-management contracts, so to speak). With regard to the employees, personnel development also turns out to be a main task of the respective superiors. That is to say, effect-oriented personnel development is a continuous process, which has to take its course in a flexible and decentralized manner. We should not try to „order“ it by directives. How else could we prevail upon people in organizations to accept something new, to translate it into action and to make positive use of it for themselves as well as for the organization? In order that these motivational activities embrace the entire personnel of public agencies, we still need to find, it is true, a frame of orientation, which provides the core elements of personnel development (including the participation at potential assessments). This framework is formed by the learning process.

3.2.2.2 Orientation towards learning

The development of employees and executives turns out to be comprised in a **learning process**. Personnel development is just this: the administrative personnel is invited to develop their own personal potential also in favor of the modernization objectives, that is, to evolve the attributes of team spirit, flexibility, multi-dimensional mobility,

strategic thinking, cultural sensitivity and readiness to take risks. Besides, service-orientation has to be learned, too.

Of course, we need to find a **formal framework** for these learning processes. For instance, in each agency, department or field of work, a future-oriented program of personnel development should be established, which provides „feedback-systems“ for promotion, renders possible the interdepartmental exchange, strives for an rotation between managerial and expert careers, between programming activities and activities of task fulfillment and accompanies these alterations with co-worker interviews, goal-setting (agreements upon objectives) and employee development appraisals. Experiences from private enterprises show that, in doing all this, the consequent realization of modernization objectives can only be ensured with the help of appropriate **mentors**. Therefore, their position is of crucial importance in programs of personnel development.

3.2.2.3 The role of executives in this process

An effect-oriented personnel management has an even further-reaching signification as **learning process for the managerial staff** of the public administration. For it is the executives who not only prepare the employees for the new demands of their work; they also orient themselves to the future tasks, which they must therefore understand, accept and design correspondingly for their fulfillment. Moreover, each executive has to take care that the employees are appointed into newly designed organizational structures in an optimum manner according to their abilities.

It depends from the support and promotion through the executives, whether the creativity, motivation and initiative of the employees can be put to the best possible use for the administrative modernization. In other words, the executive should act as a **mentor** who reaches an agreement with the employee over „what“ has to be done for the purpose of modernization, in which delay of time, and „how“ it has to be done. In doing so, the executive helps the employees by opening individual scope for action and possibilities of development.

3.3 „Executive personnel development“ as a consequence

Executives in public administration, who meet these standards, are extremely seldom „born“. Therefore, they rather need a long-term preparation for the assumption of responsibilities, which should take place in the public administration as well as through exchange with private enterprises.

This is not to say that responsibilities should be undertaken only late after joining the public service. Quite on the contrary, administrative modernization has to create the prerequisites for an early practice of personal responsibility – in cooperation with others (team-work, project management), and by reducing excess hierarchies. Nevertheless, this does not protect from the obligation to earn plenty of experiences in overlapping positions, in positions in international projects or in positions in foreign countries with a defined perspective of development and promotion. In this process, front-line management tasks and governmental functions should appropriately alternate in an inter-departmental exchange.

Employee development appraisals and direction-giving interviews, which are to combine, provide the feed-back that is necessary in a learning process. In doing so, the entire development of an executive should on the one hand be accompanied by the superior, who acts as „coach“ and who is in intensive contact and permanent communication with the junior executive (or management trainee). On the other hand, professional and managerial qualities could be trained in seminars, that is in management academies or in leadership courses. For the purposes of the public administration, the passing on of intercultural management skills should be part of this training.

But this goal-oriented support and promotion of junior executives, which starts when they join the public service and eventually leads up into managerial positions of responsibility, does not restrict itself to the aforementioned components of a functional development of executive personnel. Two fundamental challenges are added. They refer to the proper „core“ of leadership potential.

3.3.1 *Innovation and preservation as managerial abilities*

One important component is the **ability** of junior executives (or management trainees) **to innovate**. It has to be promoted in this process.

This ability has to stand the test against a web of prevention strategies and of oppositions against attempts at modernization. Simultaneously and on the other hand, the task is to design suitable personnel strategies for the respective managerial domain in accordance with the five modernization objectives and to answer the emerging questions. How, for instance, should systems of remuneration be designed that take into account differences in performance and that are appropriate for the new structures of work? Which modified roles will employees, managerial staff and staff representation council play as to the modernization challenges? In which direction will the personnel development move with its components „selection“ and „promotion“, considering that team-work is promoted and desired, but that on the other hand individual performance has to be rewarded?

Thus, „development of executive personnel“ denotes above all the training of the **analytical abilities** of each junior executive (or management trainee). Neither the relationship between State and society (economy) nor the „dissociation“ of the Welfare State (which becomes a „distant Welfare State“) nor the internationalization of administration are complete processes. The same is true for the rise of new values in society and administration and the service commitment of the latter. If the modernization objectives are thus under way, then „development of executive personnel“ means to analyze the changes and to highlight both their dynamics and their continuity. Each executive has to translate the results into a corresponding **management of modernization**.

Having said this, „development of executive personnel“ nevertheless also means to preserve traditional administrative convictions as long as the connection to traditions remains functional with regard to the requirements of modernization. One example is the liability of public administration for **strict neutrality**. Even an increased service commitment of public authorities should not give rise to a situation in which administrative action is undertaken at will or according to the arbitrariness of interests.

3.3.2 Promotion of „situation-specific leadership qualities“: coherence of theory and practice

It has already been stressed that „development of executive personnel“ is a learning process, which is determined by material challenges as well as by a formal framework of development.

In particular, **three corner-stones** of a functional development of executive personnel can be set apart. First is the „Training on the Job“, which confronts specific strengths of particular employees and needs for development with the given administrative duties. The respective result gives substantial hints to both the junior and the senior management as to the fields where further personnel development and supplementary management training are required.

Second, the **training in projects** is of great importance, because the growing complexity of administrative tasks will entail the need to fulfill these tasks in project-related team-work beyond the lines of command. Of course, conflicts will arise within the project teams or between them and the senior management or else between them and the administrative environment. Therefore, a training in conflict handling is another component of the „development of executive personnel“.

4. Summary and recommendations

Allow me to summarize: In the reconstruction of state functions and namely of public administration, the „personal factor“ turns out to be the crucial element. Professionalism in Civil Service requires a personnel management that does not limit itself to mere staff administration. Instead, the future personnel management has to adopt and to realize the model of an **employee-oriented** management of public service.

In accordance with this model, administrative modernization first proves to be a particular process of public service **development**. It is bound to traditions and woven into a particular administrative culture. Either of these anchorages entails specific administrative commitments to professional rationality, which, on one hand, are opposed to the criteria of a material rationality according to a future reduction of public tasks, but which demand still today – as is shown by the image of the constitutional State and the traditional model of bureaucracy – to be taken into account in the restructuring of the public administration. The respective change of administrative structures on the levels of program, organization, procedure and personnel therefore does not represent a brusque upheaval. Similarly, the scope of Anglo-American strategies of modernization is limited in the context of the administrative modernization in the Federal Republic of Germany with its spe-

cific setting of a given administrative culture and under the conditions of a State governed by the Rule of Law.

Instead, the task is to work out a particular model of an employee-oriented professionalism in the modernizing process which responds to those motivations of a state and administrative reform that lie **beyond** such modernization concepts as „lean State“ or „New Public Management“. In particular, **five superior modernization objectives** evolve, which imply a change of the administrative landscape. These are, on the one hand and structurally outward-oriented, a new definition of a relationship between State and society, the „dissociation“ of the Welfare State and the rise of new values in society and administration. On the other hand, the pluralization and internationalization of administration as well as its service commitment further the internal processes of public rationalization to a professionalism behind New Public Management.

The changes in German administration, which should have to be oriented by these five modernizations, result in a fundamental challenge to the personnel management, in particular to the „development of executive personnel“. In the context of an effect-oriented personnel management, the executives together with all employees engage in a **process of learning** that results in a comprehensive personnel development. Within this process, a specific orientation towards learning of the managerial staff becomes discernible. As its result, executives evolve into the function of a mentor of their co-workers. On the other hand, it turns out that the essence of their potential is due to their ability to simultaneous innovation and preservation in the process of administrative modernization.

Finally, „development of executive personnel“ means to further the coherence of theory and practice in promoting „situation-specific management qualities“. Thus, the development of the junior executive personnel turns out to be a contribution to the complex administrative modernization.

Behind New Public Management. Decentralisation in Progress and Human Resources Development: The German Education and Training System for Public Officers as an Example*

1. Decentralisation in Progress and Human Resources Development

1.1 New Public Management from the Angle of Decentralisation

A process of decentralisation is gradually beginning to emerge in modern states, that directs numerous new challenges towards the future development of government systems and public administrations. For, decentralisation in connection with developments within the civil society does not only mean the shift of responsibilities of the central state to secondary levels of state organisations of the regional authorities, as is customary in the traditional sense. Here, four differing forms are distinguishable according to traditional perception, namely de-concentration, delegation and devolution as well as privatisation. This new concept furthermore includes the politization of the term of decentralisation, which is neither concerned with delegation nor privatisation. It is just as little a sub-form of administrative decentralisation, as in this, administrative authorities are only transferred, where relevant responsibilities occur in order to safeguard the most effective completion “on the spot”. In comparison, **political decentralisation** includes such competencies and resources, which are delegated to the lower levels within the state for the purpose of dealing with their responsibilities independently within the framework of a defined area of “self-government”. With this, I mention the capability of self-organisation of civil society within a co-operative state. In it, the individual sees himself as active, innovative, problem solving and ready

* Keynote Lecture on October 13, 2003 to the Symposium on “Developing a System for Local Human Empowerment and Local Policy Making” at the Ryukoku-University from 13/14 October 2003 in Kyoto/Japan.

and prepared to take risks. In the awareness of these characteristics, the individual is, by means of decentralisation, given the chance and uses the chance to structurally influence regional and local political, economical, cultural and social development processes individually and also as part of an organised civil society. “Political” decentralisation proves itself in this way as a central component of a “good public and state management” (good governance).

With this broad and renewed understanding, decentralisation sets an overall standard, that is open to the future, as to how citizens’ responsibility in a self-organisation within civil society is shaped, as an alternative organisational form, into a hierarchically bureaucratic political development and central administration. Decentralisation constitutes a **model** for what kind of social system and civil society in a state ought to be developed, in order to implement the process of globalisation in regional and local public policy, that meets the changing needs of society, and to empower people, who would shoulder this new trend toward decentralisation.

This trend unfolds also in states with a pronounced tradition of municipal and functional self-administration, as in Germany, and has outstanding significance. This is revealed mainly in the present transition of the bureaucratic administration of Max Weber into a “public management”. The model of this administrative change, that takes place in the states of the European Union and in the Anglo-American states, is obviously not confined to the mere reduction of public duties and the reduction of hierarchy in the sense of a “slim” state. The tendency, that is connected with the change of values within western societies, to increase individualisation and the growing preparedness to take on self-responsibility for the personal development as a private citizen or a citizen within the state, i.e. also on a regional and local level, also gets a chance. In Germany, in the last few years, the progressing state form of the “activating state”, has communicated a forward-looking perspective for this. Its implementation is characterised by four **key targets**:

- A new distribution of responsibility between state and society.
- A responsible partnership between administration and citizens.
- A responsible partnership between the Federal Government, states and municipalities.
- A renewal of administrative internal structures.

1.2 Lasting municipal development as a qualitative task of decentralisation

One may, as far as this is concerned, talk about a specific quality of public and state management in the 21st century, meaning a “quality governance”. At the same time, the connection with the **sustainable communal development** follows this understanding; it was established during the conference for the environment and development, that was held in Rio de Janeiro in 1992, and it was more comprehensive than a meeting to discuss world-wide “sustainable development”. During that same conference, agenda 21 was passed, and in chapter 28 it calls upon the municipalities to create programmes, plans, measures and projects, not only environmentally friendly, but also socially appropriate and economically acceptable. The plans of action for this should be developed and implemented in a dialogue with the population, the private sector and groups of society. In Germany, many municipalities have taken up this challenge and have formed the development and implementation processes into a **local agenda**, and also assessed it with regard to quality. It emerged, however, that an ideal way for development processes of this agenda was not apparent. Approaches and implementations of the agenda processes were very different due to the multitude of structures and specific conditions within municipalities. This refers, for example, to the choice of forms of communication, the organisational models and also priorities of content and the main focus of the projects.

1.3 Changing Public Policy on the State and Local Level

Before this background, **public policy** has to rescind the reach of state and administration management in relationship to society and citizens. Simultaneously, the transition into a “shared governance” is connected with this: in Germany, this is the reduction of the state sector by means of privatisation and deregulation on the one hand, and modernisation of the domestic structures of the administration systems in partnership with their target groups on the other hand. The local sector is also affected by these two concepts of development.

Administrative policy as part of the public policy of the so-called “**new control model**” is based on this dual concept of management development in the German public sector. It is mainly made use of in

the administration of local authorities and towns. It is based on the idea, that public administration is transformed according to the model of a private sector group of concerns, and that the administrative actions are subjugated to market-resembling principles. The citizen is standing opposite this “group of companies”, in which the bureaucratic management changes to an employer management, on one side as a “customer” and on the other as a “partner” in the joint effort of producing services in the framework of an “outsourcing” or in the framework of administrative partnerships. For this reason, municipal administration in its entirety has to be reorganised into a service enterprise. The customer-, partner- and quality-orientation, that has to be produced here, is being made secure on the administrative side, institutionally and organisationally, by setting up citizen bureaus, service agencies and administrative service centres. These are also controlled via set budgets by means of a cost and service bill. Reporting and controlling also have to be considered.

The consequence for the employees in administration is, that target- or service-agreements have to be drawn up about the resulting contributions. Such a **contract management** wants to agree the target outputs of the administrative actions and secure quality at the same time, having taken each single administrative employee into consideration. Between individual government departments, target arrangements and benchmarking are introduced in order to create structures that resemble the competition within public administration. Finally, a strict functional separation of politics and administration on all levels is promoted.

Before this backdrop, outlines of a “**new**” **German administration** are beginning to emerge, in which effectiveness and efficiency take a far higher standing than in the past. Over and above, the independent profile of the **administration manager** emerges. The post-bureaucratic forms of organisation of public administration are set up accordingly as project management and teamwork in the – until now – hierarchical structures of ministry and local administration. The process of decentralisation is being pushed ahead by moving affairs to local administration departments. Furthermore, everywhere the model of modernisation, which is the citizen orientation of public administration, in connection with the simultaneous citizen participation, sees itself implemented. The transformation of state and local administrative institutions into independent companies under private and civil law, constitutes a vast part of the changes.

Areas of local basic provisions, namely the supply of electricity and energy, the public local passenger traffic, but also hospitals and the supply of water are being privatised, mainly on a **municipal level**. The same applies – on a state level – to the postal operations and the entire telecommunication sector and the railway. Even the Federal Armed Forces have meanwhile hived off a company under private law to procure their military equipment. What is more, over the past few years, the launched summoning of self-responsibility of economic enterprises for the development of the community, has been put into effect. These concerns were handed over numerous preventative measures to safeguard technical, social and public security. Furthermore, in the area of “home affairs”, the Federal Government and the states in Germany have admitted – and far stronger than before – to let private security service workers partake in guard, sentry and security duties. The responsible promotion of environmental protection via companies is a further weighty example for the withdrawal of the state sector; the same applies to the gradually maturing opening of the state’s social security for private suppliers.

1.4 In the Heart of Decentralisation: Changing Local Agenda and Bringing in Local Empowerment of Citizens

Altogether, far-reaching changes of public policies are noticeable. Their characteristics are the withdrawal of the state sector to core tasks of the state and also the transition into new decentralised administrative concepts during internal modernisation. The result is a public, which stresses the individual responsibility of employees for decentralised resources management and involves the citizens in the formulation and implementation of municipal politics (participation and citizen involvement), particularly on a local level.

Without the appropriate municipal **change of responsibilities**, the continuing decentralisation process would obviously come to a halt. Here, mainly three developments can be noticed, that characterise the present situation in Germany. On one hand it comes to a continuing liberalisation of local affairs – and through this, the way, in which the municipalities perform the traditional duties of existential provisions – changes considerably. Local change of responsibilities is also, and on the other hand, the result of the unbroken tendency of many towns and local authorities to branch off the duties to businesses and companies of their own. Nevertheless, the financial crisis of local authori-

ties makes it necessary to examine all municipal tasks closely under the microscope in order to clarify, what can be dispensed with or transferred back into the social sphere.

By concentrating local actions to essentials, civil society on a local level gains at the same time in strength. What this is all about, is the development of self-initiative and self-organisation. Nevertheless, local self-government and independence suffer more and more from the tight financial situation. Hence the encouragement of citizens' commitment in local affairs and in the wide range of social activity in communes beyond the classic political participation has grown up. The empowerment of civil society is at the same time competing with a new understanding of the role of citizens as customers by local administration, and with the renewing of the policy formation by e-government.

A change of public policies in the state and on a local level is thus recognisable behind new public management. A change in perspective in local society and public policy reveals itself as the centre of political decentralisation. As a result, citizens and groups of citizens within the communes are transferred back more responsibilities in deciding and arranging those matters, that concern them. Economical concerns appear in this context as socio-political performers who consider the local level as a place of social innovation, and they devote special attention to it.

Prerequisite for this, however, is the connection of local participation with **regional politics**. Concerns and enterprise networks require for their affairs an innovative regional atmosphere, which by far exceeds the economical milieu. Appropriate approaches go beyond the tasks of classic economical output. They extend as far as the inclusion of all resources of knowledge and connections within the regional area of responsibilities. At the same time, the role of local authorities changes again. They become mediator and presenter, initiator and partner of the citizen- and enterprise-involvement.

1.5 Modernisation of Public Service and Human Resources Development as Consequences

The process – as outlined above – of the political and administrative decentralisation has consequences for the *public service*. It first of all applies to its institutional-legal structures. Everywhere – within the

framework of modernisation of state and administration – it is brought into line with the working conditions of the private economical sector. A special status is reserved for the “upper leadership cadre”. Over and above, tendencies of decentralisation also become apparent in personnel management, performance-related payment and administrative education. Nevertheless, an integrated model of the public service does not yet follow.

The concept of valuation of the European constitutional and social state is not able to adopt the required leading function. Moreover – in its genuine perception of the particular nature of “public” administration – it is, in principle, the opposite to the Anglo-American modernisation concept of state and administration. In the Anglo-American concept it is, however, also about the internal rationalisation of the public sector in favour of stronger effectiveness and efficiency, but the “entrepreneurial” understanding of management remains most important. The aim is to create a government, which works better and costs less. This opinion is traditionally in close proximity of the conviction, “that the study of administration should start from the base of management rather than from the foundation of law”. Therefore, while in continental public administrations, coping with work in a legally set framework is in the foreground, the Anglo-American states stand by the principle of “managerialism”.

The reorganisation process of public services is even in the “old Europe” indispensable. It can, however – with regard to the outlined challenges of political decentralisation and the changes of both local public policy and that of the state – only then be successfully achieved, when all employees on all levels actively partake in organisational developments. The “personnel factor” becomes the most decisive element of a broad administrative development in the **reconstruction of communal and state functions**. It requires personnel work, that is not only restricted to mere personnel administration. Instead, future personnel management has to adopt and implement the model of a personnel-orientated decentralisation on a state and local level. In this context, future-orientated promotion of qualifications, gains central meaning. It becomes the main focus of personnel development as an investment in the future efficiency of administration. It lives off the self-responsible activity of the personnel – also for its own professional future.

For the local empowerment and the encouragement of citizens’ commitment in civil society, the potential, that new administration

managers have, becomes in this way decisive. In relation to this, the principle of the public service in Germany is, that the required tasks can only be dealt with by professional employees, who's demand profile is orientated toward the change of public policy and the changes of administrative tasks, connected with it.

Education and further education for the public service has to make a significant contribution next to the target- and effect-orientated **recruitment of personnel**. Members of administration are required to develop their personal potential in favour of modernisation, and they have to enter a learning process, that is in a broad personnel development, also embedded on a local level. The responsibility of education and further education for the public service is, to provide the appropriate professionalism of new recruits and of the existing personnel. **Managerial development** plays a special part in this. In the framework of an effect-orientated personnel management, managers, together with all employees, consider themselves as part of the learning process, which, however, shows a specific learning orientation of the managers. They develop on one hand into mentors of their employees, on the other hand the core of their potential is the capability, to absorb simultaneously the change in society and administration, and also their service-orientation. Development of management means, to strengthen the innovative competency of managerial new recruits. Beyond this, and on the other hand, it is all about the promotion of situative managerial quality. Last, but not least, changing local society and public policy demand from the leading members of administration of the municipalities, that they are equipped with capabilities of direct communication with the citizen and appropriate conflict handling.

2. Education for Public Officers in Germany

2.1 The System of Careers and Educational Demands for Civil Servants According to Career Law

The present system of **education for the public service** in Germany follows certain demands, that are characterised by its structure. We understand the term "public service" as the unity of (dependent) professions, which are reserved for the execution of state and communal duties, and are incorporated in the state organisation. The public-legal form of law is less important for the attribution of these activities to

the public service; even members of a company with limited liability (PLC), that has been privatised, could materially belong to the public service.

In this sense, the public service includes the circle of such persons, who have an immediate service- and loyalty-relationship with a public institution, corporation or foundation. It thus embraces the permanent civil servant status, inclusive of the public-legal and special status of judges, college and university lecturers and soldiers.

Salaried employees and workers of public employers are also part of the public service. Law and reality of the public service are – in this way – characterised by a “two-track system”: the civil servant – a type of profession, differing in form and context on the one side, is confronted by the public employee in a private-law service relationship on the other side. Nonetheless, he is classed as belonging to the public service. The status of the civil servant is, however, tailored in a special way to suit the particular nature of the state, its constitutional structures and its responsibilities. The same applies to the communal civil servants. They altogether should – according to the constitution – carry out sovereign core tasks. The employees in a private-law service relationship, however, take on mainly services. They are subject to a “white collar worker-law”, That – in a wider sense, is classed as belonging to the private labour law, and that differs from the administrative law. Furthermore, there are “workers” in the public service, who are also subjugated to the private labour law, that means, they are like employees in a contractual relationship with the public service.

Civil servants are at present numerically in the minority in the public service. The employee status has reduced the civil servant status in the constitutional and administrative reality in Germany. In addition to that, many employers voluntarily fill civil servant positions with employees, in order to be more flexible in personnel economy. The term “blue collar worker” has also nearly been annihilated in the public service. Less and less workers exist.

The constitution of the Federal Republic of Germany stipulates in article 33, chapter 5GG, to regulate the law of the public service by taking into consideration the traditional principle of the civil service with life-long job security. Typical for this, is the structuring of the civil service conditions by the so-called “career principle”, that belongs to the traditional principles of the civil service status. A career summarises all positions of similar subjects, which are based on similar trai-

ning and education. The “career group principle” divides at present careers in four groups. These consist of the careers of the lower, middle, higher and senior services. They are connected with regard to the choice of personnel to appropriate final examination within the education system, that is visiting and passing final exams in secondary modern schools, grammar schools or venturing into scientific studies.

2.1.1 The Higher Service

Members of the higher service, nowadays, form the strongest career group. This forms the backbone of public administration in the Federal Republic of Germany. The group of civil servants belonging to the higher service is continually advancing in weight and numbers. The development of the appropriate career law looks back on a long history. Its principal reorganisation goes back to the year 1976. At that point in time, the employment and education requirements for individual careers for civil servants were adapted to the even then increased demands and performance expectations of public administration in Germany, and also to the changes of educational structures. Of overriding importance was the differentiation of a new educational level next to universities, namely that of colleges. As a result, those people, who achieved a college certificate or another appropriate school education, entitling them to university studies or studies at a university of administrative sciences, or could prove, that they had an educational level of equal standard, could be considered for the preparation of a career in the higher service in Federal, state and municipal administration. The administrative preparatory service, which builds on educational qualifications, lasts for three years. It takes place within a college course of study. Subject studies are usually achieved with alternating vocational study times, which are practice-specific. Subject studies and job-specific study times thus form a unit. The preparatory service concludes with a final examination. With it, the qualification for a career in the higher service is achieved (“career examination”).

2.1.2 The Higher Service and Careers of a Specialised Subject

The required training syllabus for access to the higher general non-technical administration service, is the scientific education at a uni-

versity. In addition, the preparatory service has to be served out, that means has to be absolved administration-internally. Part of it can be absolved at the German University of Administrative Studies, Speyer.

Further careers in the higher service can be set up, provided, a service requirement is in existence. It is then a matter of careers of a specialised subject, as, for example, the archeological service, the information technology service, but also the food chemistry service, just to mention but a few. Applicants for access to these careers of specialised subjects also experience their education and training at external scientific universities.

2.1.3 Middle and Lower Service

Education for the **middle general administration service** is, on the other hand, set out administration-internally. Similar to college education for the higher service, the practical instruction at the workplace in the employment office is combined with a subject-theoretical education at schools of administration or at study institutes, which are shared by local authorities.

Education for the **lower service** is, however, as always, very little standardised. It remains mainly oriented toward the achievement of practical skills. Career law requires access a secondary leaver's certificate or an equally recognised educational degree. With privatisation of big employment providers, as for example the German Federal Post Office or the German Federal Railway, the employment potential of this career has decreased considerably; the lower service in Germany has for the most part "dried up".

2.2 The New Conception of Career Education for Civil Servants

During the past few years – this traditional system of careers and educational requirements for civil servants, in which also local authorities take part by being involved with its organising and also with educational results through choosing their personnel of civil servants, – has been developed further. In the foreground are the contextual requirements of the career law, that have started off from the processes of state and administration modernisation, influenced by a new public management and the connected decentralisation of administration. In

the process of this development, the responsibility of the employment offices – on the spot – was strengthened. Upper service authorities are given a bigger scope for decision-making, and they can delegate more widely. At the same time, more emphasis was placed on the principle of performance. Finally, employing applicants in the public service is made easier. These and other new regulations, that follow the **basic thought of decentralisation of personnel responsibility and decision-making** on one side, and the **strengthening of the performance principle** on the other side, want to ensure, that the quality of personnel in the public service within each career is preserved and further improved.

The **new concept of promotion** from one career to another also is part of this. For this, the permeability between career groups has been improved. A further principle of the career law is more strongly emphasised in this, namely, that in qualifying for a career, all summarised duties within the career can be adopted, and that the personnel can be used not only in a few service posts, but in a variety of them. The unlimited extent of usage in the career, which is meant to be achieved with the “practical promotion” is an important means for a more efficient and more flexible use of personnel.

Beyond the career law, the education for **access to specific careers** has been altered. Extensive reforms of the training syllabus for employment in general administration have taken place, especially in relation to the higher service. This process of educational reform is still ongoing. Colleges for public administration are setting up courses of study, that emphasise on one hand elements of business management, and on the other hand, take into consideration the requirements of civil servants and other administrative employees to treat the citizen as a “customer”. The appropriate training for Federal administration and that of the state and local government includes main focuses of business management, administrative elements (“Master of Public Management”), and more frequently Europe-related study offers. The ones, that benefit mainly from this, are the municipalities and districts in Germany. The land legislators have widened their scope of shaping this, and in doing so, have altogether strengthened communal self-administration, so that from now on able personnel is needed to use this scope. The revisions within the municipal commercial law have to be mainly emphasised in this respect, and also the strengthened orientation toward business management within communal activities. The following chapter will describe in more detail, how the generally

outlined change of demands on the personnel of local administration affects career training.

2.3 Lasting Education for Local Administration under the Sign of Task Changes

2.3.1 *Accesses to the Functional Levels of General Non-Technical Administration*

While – according to the outlined career law – local administrations “serve themselves” from the potential of career applicants and/or other applicants of careers of specialised subjects, after having completed the appropriate preparatory service, the situation for the **higher and middle service of general non-technical administration** presents itself in parts differently. The preparation for employment on a higher functional level of local administration is handled in three ways:

- For employment in the **higher** general administrative service of civil servants via a study at the University for Administrative Sciences.
- For employment in the **higher** general administrative service of civil servants via **promotion** from the middle service, that – as a rule – also takes place in a study at the University of Administrative Sciences.
- For employment on a higher functional level as a **salaried employee (“white collar worker”)** via the Salaried Employees’ Course II, inclusive of a “second examination”, that is provided by the relevant Federal Statutory Salary Scale Contract (BAT). This I shall explain separately in more detail.

For employment on a middle functional level (“middle service”), there are also three accesses in existence with varying requirements:

- The **middle** general administrative service of civil servants.
- The education for **salaried employees (“white collar workers”)**, as provided according to the Statutory Salary Scale Contract with the qualification “First Examination”. This is mainly an option for “side entrants” from other professions.
- An apprenticeship for **skilled salaried employees of administration** on the basis of the vocational training law and according to

the Federal law order about vocational training to become a skilled salaried employee of administration, from the year 1999.

2.3.2 From Bureaucratic Training to the Learning – and Employment – Sphere of “Municipal Management”

It is essential for both areas of training, that, following the change of public policy, as outlined above, and as a consequence of changed communal responsibilities, and also as an appropriate strategy to local empowerment of citizens, employees have to gain other and additional qualifications for their work: Apart from the capability to carefully implement laws, employees have to equally take control of business management cost- and performance-accounting, as well as the competency to form a partnership through appropriate interactions, while dealing with the citizen. Local employees of administration are in this respect put under **triple pressure**: On the one hand, the citizen as a “customer” demands effective, efficient and polite administrative behaviour. On the other hand, however, the citizen also and at the same time appears to be in the role of a “democratic partner” of administration. He demands involvement in shaping administrative duties (“involvement relationship”), and places its citizen participation next to the administrative duty. Thirdly and finally, the service provider, i.e. politics, requires from its employees multi- and inter-disciplinary knowledge: The “enterprise municipality” has to be led like a business management, and in the sense of “Agenda 2010”, despite resources, that are steadily getting more limited in the course of maintaining and promoting the rule of law.

From this follow stringent requirements of the “new” administrative training. The emphasis on legal subjects has relatively become less significant, even though the function of law as a means of control of administration, must not be ignored. More significant become, nevertheless, a group of economical subjects, social sciences and information technology. In addition, there is the teaching of (also social) key skills, and through them achieving the required behaviours. These are such fundamental attitudes and values, that are – in education and employment – often more important for the success than special subject knowledge. This concerns forms of behaviour, like, for example, reliability, resilience, knowing how to achieve one’s objective and also willingness to take on responsibilities, and also communicational skills, such as the ability to communicate easily with people or the

ability to empathise. Also social skills, like, for example the ability to work as part of a team, have to be taught during training. This should happen in a so-called **work-orientated** training sphere, based on practical work – for example in so-called workshops –, that is aiming to actively include people in training, through encouraging them to help to structure training and to work out the contents. German towns and cities, like Bremen for example, have, furthermore, set up so-called “learning bureaus”, meaning centres of education and further education, that are, as **“local service agencies”** used as a combination of an educational, but also (real) business link centres within a teaching sphere, but at the same time outputting performance for the citizen. The objective is the inter-linking of practical and theoretical education in the framework of a decentralised human resources development.

2.3.3 Local Personnel Management in the Age of Information Technology

The characteristics of modern training for local administration – as briefly outlined above – are an important component of the strategy of personnel management for politically decentralised administrations, that are open to the future. It is about the simultaneity of citizen orientation, employee participation democratically responsible partnership and technical usage. Organisationally, they are represented as **citizen-service-centres**, which are often also called citizens’ bureaus.

The usage of **information technology** plays an important role in this, as I made clear earlier. Citizens do not only need to be supplied with information as customers. Particularly in Cities with populations of millions, such as Berlin, Munich, Cologne or Hamburg, the provision of citizens with comprehensive information could hardly be realised without the media and especially the use of information technology. More than this, many municipalities have set up citizens’ advice bureaus, which, as an interchange between administration and citizens, makes access to administration easier for the public. One member of the **citizens’ advice bureau** attempts to pave the visitors’ way to the various offices and provides informative material. The core of most of these citizens’ advice bureaus is the “hot line” to the municipal administration. This telephone service is governed by the principle: “We’ll help you! We’ll find the right office! We do the searching for you!”

Other services will be provided by the “citizens’ administration service”, that functions like a **one-stop-agency**. In this case, citizens who ask for administrative services, should feel like customers standing opposite a private enterprise.

Equally important is last, but not least, the use of forms of **e-government** for the encouragement of citizens’ commitment in local affairs. Several communes in Germany offer a **special service** for those, who are interested in getting in touch with local public policy and the way of decision-making by using the Internet. They will get information, advice and also, if wanted participation. In this way, a new start in the process of policy formation is prepared.

During the German **Towns’ Conference**, it has – before this background – repeatedly been considered, to set up a so-called **communal academy**, which would have to take over the education and further education of municipal management from council and administration. This has not happened until now. Nevertheless, I seem to think, that there is a certain need for it. An Austrian initiative of the past few years, that has led to the setting-up of a course of study, namely “communal management”, supports me in my opinion. In trying to offer a comprehensive work-based course of study, Austrian towns, Cities and scientists have developed a course of study on a university level, that trains modern **communal managers**, so as to allow municipal administrations to act as a service-orientated administrative unit, close to the citizen.

2.3.4 The Structural Framework of Communal Training of Salaried Employees

Until now, I have mainly talked about **civil servants**. But even when I outlined accesses to the middle and higher functional levels of municipal administration, it has been pointed out, that **salaried employees**, who are working in local administration, also have to rely on their own training.

Those salaried employees, who work in the non-technical sector of municipal administrations, gain their training, according to differing subject plans and educational structures of the states, at local study institutes or institutions of the states, and also schools of administration. Basic education follows a dual-track policy. Those, who attended a secondary modern school and gained a leaver’s certificate, but also

those with a middle secondary modern certificate, start off with an apprenticeship in administration, meaning attending a training course to become an administrative expert (salaried) employee. This has been mentioned previously. “Side entrants”, who play a certain role within local administration, because of the very strong fluctuation in personnel, are offered a “Course I for Salaried Employees”, which is offered by schools of administration or study institutes, and its theoretical part is widely similar to the training to become an expert administrative employee. The official further education is “Course II for Salaried Employees”, and this can be attended by choice. The outlined structure of training courses and those of further education apply to all Federal states.

It leads, however, to a strict territorial isolation. Study institutes, managed in most differing forms of law, and their local responsibility, is limited to the districts and communes, they belong to; they function as respective partners. Apart from this, even in this **institutionalised structural framework of municipal training of salaried employees**, it has come – and that much is certain of courses for salaried employees – to a gradual change of educational contents, orientated toward the already set goals of the changing public policy of municipalities and their local responsibilities.

3. Continuing Education in the Framework of Changing Public Policy and Agenda of Federal and Local Government

Following these and further changed prevailing structural conditions, the crucial question has to be asked by local administrations, how it can be guaranteed, that employees are ready to work with the right qualification, at the right time and at the right place. In other words, care has to be taken, that the resources available for training and further education have to be used, where gaps of qualifications exist between the profile of demand of the department and the profile of qualification of the employee. This applies to a great extent to **further education**. Taking part in these measures, must not be misused as an “incentive” for the good behaviour of administrative employees on a local level.

3.1 Personnel Development through Further Education

The qualification requirement, applicable to the development of local administration according to political decentralisation and the demands of a new public management, is based on the idea, not only to develop additional individual subject qualifications beyond training, but also the self-development of personal and social skills. “**Further education**” in this sense, has to be comprehended as a component of the increasingly more important development of personnel. This entails not only gaining additional, but also individual social competencies.

The **principle, regulated by civil service law**, for such a further education policy, is for civil servants in the career law of the Federal government and the states – until now – only partly true. Legal and factual deficits remain, also on a local level. Nevertheless, according to civil service law for civil servants, an obligation for further education exists, as set out in an appropriate pay agreement. Complementary to this, administration management within local authorities has to take care, that appropriate requirements of further education of employees are recognised, and participation in measures of official further education have to be assured.

Its **objective** is obvious: further education entails individual performance increase, strengthening of employees’ motivation, as well as professional and individual further development with regard to the prerequisites of political decentralisation and changes of public policy and local agendas, as outlined above. In all of this, the starting point is the empirically substantiated supposition, that heightened individual efficiency, as well as further development of personal competence is also beneficial to the entire communal administration.

3.2 Organisation and Implementation

Organising and implementing further education is, on the one hand, the responsibility of administration-internal institutions. For the **National level**, the Federal Academy for Public Administration has to be mentioned. Other special further educational institutions exist within the **further education network of the Federal government**. On a **state level**, an administration-internal connection of further education in a central and decentralised manner is, on the one hand, in existence. Apart from the particular Ministries of the Interior, further education at

colleges is on the increase. Of special importance is – in this sphere – the **German University of Administrative Sciences, Speyer**. It has developed further education of administrative sciences for employees of the Federal, state and municipal administration, in relation to the higher services, to the main focus of its activities. A multitude of diverse types of events is on offer. Local authorities add, apart from offers from outside sources, specific efforts of their own to promote further education.

The system of official further education has since several years been made accessible to the **educational market**. Meanwhile, a **multitude** of educational offers of appropriate private funding bodies for employees of the public service, and also of local administrations, dominate the field. Another “interim existence” is represented by the **academies of administration and economics**, whose diplomas and final examinations, according to career law, have to be considered as proof of special subject knowledge, also for the public service. These institutions, that mainly serve local affairs of further education, and offer (their own) job-related further education within and outside working hours. However, a regular combination of official further education and training activities of economy enterprises of trade and commerce, does not exist. One exception, that is insignificant in numbers, however, is – now and again – further education of managers of the public sector, in so far, as they complete one stage in a private company, as, for example in “managerial courses of lectures”.

3.3 Further Education and Development of Management

Further education of management is the main focus of official further education for the Federal government, the states and municipalities. It turns to all levels of management in administration. Appropriate programmes of further education are in existence for new managerial recruits, but also for those, who already carry managerial responsibility. Both **target groups** require – in parts – differing concepts; they have varying demands on further training. **Managers** are all those, who already have responsibility for personnel. Further education has to contribute in this to strengthen principle competencies, meaning to impart skills and capabilities in relation to management of personnel, communication, safeguarding of internal quality, organisational development, business management-principles and self-organisation. Within the reform process of (local) administrations, it is also necessary to

gain **process-related competencies**, in municipalities – mainly according to the prerequisites of the new control model. As far as this is concerned, all levels of hierarchy have to be included in further education.

Further education for **new managerial recruits** has even different prerequisites. Imparting basic skills, designed to take over managerial tasks, comes to the fore. It is all about a complex acquisition process, that has certain prerequisite profiles and models as a basis, and in which concrete development perspectives for each individual have to be demonstrated.

On a **local level**, therefore, the role of study institutes and schools for adult education – as communal institutions –, must not be underestimated. These are specialised to competently organise further education. Their knowledge, therefore, can also be utilised for further education of management. The question of cost not least speaks for itself. Study institutes, schools for adult education and further education-departments of local personnel- and head-offices, anyway, are – vial local budgets – at least part-financed.

4. Summary and Results

In observing the processes of political decentralisation and its consequences for administration management, the line of vision increasingly aims at the development of personnel resources in the framework of communal and functional self-government. Its improved utilisation – in the sense of the model of “public management” –, has to also take into account the comprehensive citizen participation within communes, on the basis of a more pronounced individual self-responsibility, and an appropriate local empowerment of citizens, as the change of public policy in municipalities and the creation of communal tasks.

In order to achieve this, employees of (state) and local administrations have to gain, on one hand, distinctly more knowledge in general business management, in cost and performance accounting, as well as in commercial bookkeeping. On the other hand, the citizens in their changed attitude toward administration, assert their entitlement – more than ever before –, to be treated as a “customer”. Local administrations, therefore, have to understand themselves more comprehensively as service providers. This even applies within the authorities in utilisa-

tion of services of other organisational units. Thirdly and finally, citizens in a civil society want to be considered as equal democratic partners of public administration. “Administration partnership” in this sense, i.e. acting in the role of customers, and cost-conscious service understanding, requires – from the employees in administration – both a **renewed and further education**. Employees of administration have to be educated in accordance with interaction with the citizens. A stronger citizen- and customer-orientation has to be imparted on the basis of increased social competencies. At the same time, business management elements of education have to be emphasised. And finally, it has to be learnt, how to meet in an administration partnership, which goes beyond a mere contractual relationship.

All of that requires a drastic reform of education and modernisation of further education, also and mostly on a local level. The first steps toward this have been taken in Germany. During the past few years, education and examination regulations for employment in general administration, have been reformed in nearly all Federal states. The same applies, especially in view of civil servants, for the career law and career order of the Federal government and the states. Federal government, states and municipalities have in this a modern educational system at their disposal, even if its structures are still incomplete.

Whether modernisation in its entirety was a success, experiences of the coming years will show. We do not quite know yet, what is wrong. One thing is certain, however, that educational reform is an ongoing process, which has to take into consideration the continually changing prerequisites of both – state and local change – with appropriate educational requirements.

The Influence of Administrative and Government Reforms on the Change of the Command Economy to Market Economy – the Case of the Middle and Eastern European States*

I. Starting Point

The European Union (EU) is after the completion of the Amsterdam Treaty faced with the biggest challenge of its present development, namely the joining of the candidates of the Middle and Eastern European States (MEE-States). Within the coming years the question is to establish the economical, ecological, social, security and political conditions of this joining process in the course of several „rounds of negotiations“ – that already are rudimentarily structured – in such a manner that the present political and legal foundations of the community are not jeopardised.

Admittedly this is easier said than done. The institutional prerequisites for speedy and democratic negotiations are not on all sides in existence at the required degree. Simultaneously, the joining candidates are faced with the problem to connect, step-by-step, and in nearly all political sectors, the appropriate joining policy to the reform attempts in the „own house“.

Certainly in so doing **one** main emphasis is constituted in the attempt to safeguard the inner and outer stability of the national economy medium-term. Already in the previous years the MEE-States have restructured their formerly centrally controlled planned economy into market economies, decontrolled prices and by liberalising markets and privatising state-owned enterprises and by means of arduous price stabilisations have been laying the foundation stone for a new phase in the transition into a market economy. Admittedly, the simultaneously occurring reorganisation of the political and economical system led to considerable social strains. Millions of jobs were lost in the past

* Published in: Jain, R. B. (Ed.) (2000), Command Economy to Market Economy. Restructuring and Transformation, New Delhi, pp. 138-156.

years, incomes were reduced and eaten up by inflation. Accordingly, mass protests against company closures and dismissals occurred as well as protest actions against measures by the State of newly elected governments in the social area. Nonetheless, the development of economical figures shows that the transition process has entered a new stage for the MEE-States.

For the further development it must not be overlooked, however, that one prerequisite is indispensable for the realisation of both internal and external reform options: the existence of governmental and administrative structures which facilitate the joining- and thus reform-policy as well as transformation through law and management. Constitutional reform and the differentiation of reform-based administrative competence are two of the supports of the EU-East expansion. Accordingly, the European Bank for rebuilding and development (East European Bank) has stressed that there is a complementary need for action with regard to State and administration. A recently published report by the bank has stated that in places, where the State has to build up something new, reforms progressed only slowly. Competitive politics in all MEE-States were still inadequately developed and the banking systems delicate. Generally – so they say – one has to start out from the assumption that there are serious faults within the institutional basic conditions and as a result particular attention will have to be paid in future to the setting-up of appropriate governmental and administrative structures during the transition into a perfect market economy. But one must not judge the more or less negative concomitant phenomena and consequences of the economical transformation process equally in all countries of the region. A marginalisation and impoverishment of large areas of the population will – to varying degrees – be the outcome, especially of those who cannot count on being caught by functioning social safety systems. But even if the transformation process in several countries of Middle and Eastern Europe and also in the Successor States of the Soviet Union represents itself with absolute difference, it is, nevertheless, of great importance to create in **all** States the political basic conditions for a democratic and pluralistic society by reforming the laws, the jurisdiction and administration.

II. Governmental and Administrative Modernisation as a Condition for Integration

a) This applies on one hand and to a special degree to the **public administration**. Without its contribution, the transition into a Welfare State democracy under the rule of law, as well as the stimulation and enforcement of a permanent growth of the market economy, that is also socially and ecologically compatible, is bound to fail. This connection of a democratic and accountable government and/or administration under the rule of law and a functioning economical and social system – both at the same time foundations of an ecologically compatible existence – must no longer be denied. The further reorganisation of the administration including institutions of truly independent administrative control and the process of becoming independent of the administrative bodies, are of determining importance for the future development of the MEE-States.

Inseparably connected with this process is also and on the other hand the progressive renewal of the **law**. The integration of the MEE-States into the EU will only lead to success on the basis of a stable legal, constitutional order which – on a constitutional level – establishes the social contract which ensures a wide-spread participation of all levels of population in the economical, social and ecological decision process – according to the basic principles of the Anglo-European constitutional State. Admittedly the constitutional and legal developments which are appropriately still necessary, are subject to a manifold model; within the individual States weaving is extraordinarily differentiated. Because – over the many centuries of historical and cultural characterisation – fundamentally differing legal and administrative areas have developed in Middle and Eastern Europe. They can be geographically identified – although not always demarcated against each other – as „East-Middle-Europe“, „South-East-Europe“, the „Heartland of the Russian Empire“ (Russia, Ukraine and White Russia) and the „Islamic Region“ of the former Soviet Union.

b) The success of the integration of the MEE-States into the EU, therefore, also and mostly depends on efficient legal and administrative structures. If, however, it is all about the joining of the named States and – as it were in a „second row“ – about the joining of the further reformed countries Middle and Eastern Europe, then it should be insisted upon the extensive acceptance of the *acquis communautaire* dominating within the EU, particularly, therefore, the assignment

of the common assets in the areas of law, social standards and their underlying administrative structures. The result of the joining negotiations will, therefore, be measured on a radical reorientation of State, law and administration within the willing reform countries.

c) However, a **conceptual problem** arises for the corresponding steps of negotiations: The assignment of current management-formulae which have been developed within the past years under the key concept of „New Public Management“ already stands contrary to the lack of a global and/or West-European convergence of management concepts. The reforms in New Zealand, Australia and Great Britain which have – in connection with efforts of privatisation and deregulation – led to a specific administrative development in those countries, are not transferable in their original form to the States of the European Continent. This applies not least because of the difference between Anglo-Saxon and Continental-European State traditions. It is increasingly becoming more apparent that up to now the cultural borders of such a transferability, which not only exist in the North-South-relationship, but also between the Industrial States, have been neglected. This danger now forms a threat during the advancement of the reorganisation of governmental and administrative structures in Eastern and Middle Europe: The comparative investigation of the Eastern European history verifies in any case that Eastern Middle Europe has defined itself since the 15th century more and more clearly as a separate European structural region. The structural differences arisen from this between the European leading cultures and, for example, Eastern Middle Europe, conflict with levelling through mere adaptation of governmental and administrative reforms in the West-European and/or Anglo-European States to the State systems of Eastern and Middle Europe.

It has to be added, that in this region – apart from safeguarding the economical development – it is still about the problem of creating centrally legal and administrative bases. The centre of attention is, therefore, not so much the bureaucracy-problem, familiar to Western Europe; the main efforts have to be applied – in contrast – to the development of a „public service“ in principle, that is, the development of a public sector that has a major interest in the creation and safeguarding of a Welfare State democracy under the rule of law. This implies making sure of the role of the State and the creation of a new public administration before the background that even in the specially structured region of East Middle Europe no uniform administration cul-

ture is in existence. Only today is it apparent in this connection how superficial the attempts in previous years were to postulate a uniform bureaucratic administration in Communist States under the term „cadre bureaucracy“. Quite on the contrary – a uniform and structurally identical **Continental-European bureaucracy** does not even exist. Opposing claims fail to see that we find, especially in the Continental States of Europe, mainly in the current European Union, a fanned relief of varying administrative conditions and -structures before the background of greatly differing initial conditions for the development of bureaucracy. Little gain of recognition is, therefore, expected to be achieved by efforts to distinguish between „three Worlds of administrative modernisation“. Thus cannot, for example, Continental-European administrations like those of France and Germany – independent of their respective basic structures – and not only because of that – be described as „classical administrative systems“ and be assigned to a „first World“; the reason being that within these countries the bureaucratic attainment orders – created by modern age – have, beyond all political instabilities and changes, come through the regime changes of monarchy via dictatorship to democracy unchanged and/or structurally undamaged. This (known) thesis of the resistance of public administrations against democratic Welfare State developments has to be rejected for the German Democratic Republic because of a number of reasons. In any case, it hardly can be denied that as for the position of the German administration under the constitution, politics have the upper hand over public bureaucracy. The situation in this country corresponds in so far and more or less with the Anglo-American development of values of the political systems to the substantial identification model of public administration. This fact is thus granted when you find the following wording that „admittedly also in Germany there is a close connection between being a State under the rule of law and a democracy.

III. Governmental– and Administrative–Integration as an „open“ Modernisation Process

The conceptional deficiency in the question of governmental and administrative modernisation, as outlined above – has as a consequence for the MEE-States, that original steps to develop the political and administrative systems – on the basis of one’s own (administrative-)

cultural identity – have to be searched for; at the same time the basic forms – which are inherent in a bureaucratic model and are undeniable in a constitution – of a firm responsibility order of administration, the rejection of office despotism as well as the turning towards professionalism and neutrality, have to be integrated into public affairs.

a) Directed more generally, the **basic questions of the institutional characterisation** have yet to be discussed in the long-run. In the search for appropriate answers for the individual MEE-States it appears, by the way, how little productive the considerations of the past years in connection with this were, which were carried out under the keyword „transformation“. The thus described „change“ of the former real-socialist „law“ and/or the conveyance of grown structures of task, organisation, decision and personnel obey – on the other hand – during the process of the fundamental system change, a more and more visible law of movement, if you wish: a concept of change with regard to the contents, for which the often chosen term „transformation“ has stayed just as meaningless as nowadays in getting closer to a „New Public Management“, the outcry, which always remains the same, for „strengthening of individual responsibility“ and for „acceleration of planning- and authorisation-processes“, has remained without contours. For it is not tangibly determined, what the transformations should be aimed at, in which period of time and with what quality. In contrast, what matters is: whether and how far institutionalised models of action relative to States are transferable inter-culturally, and/or on a European level – again broken – are transposable to the MEE-States, and concerns first and foremost the question of the respective culturally influenced structure of conditions, and furthermore, in a wider sense, the question of the substantial aim which these processes shall serve.

b) It is certain that in the end this aim has to be called „**integration**“. But this means the materially determined and lastingly to be supported process of a new order of societies marked by the mutual models of freedom and equality, of market economy, ecological and Welfare State politics and democracy, which as such and „translated“ into politics overcome the conventional system contrasts without covering up the cultural difference between East and West. Before this background the Middle and East European governmental and administrative integration proves itself as an „open“ process of modernisation. Its **European approach** does, therefore, not only stay hopeless, because previously it had been referred to as the undeniable autono-

my of the respective national governmental and administrative development. Furthermore, especially in this respect, the **term integration** is within its reach able to transpose a modernisation of State and administration – compatible with the community – of the Middle and East European countries in the direction of the EU. Because, also in the EU-States, public administration is part of communal integration and its meaning is binding. The administrative development within the East Middle European countries is to be understood in this sense.

c) In order to be able to secure this formation of unity, the governmental and administrative structures are to be perpetuated on the basis of experience and knowledge gathered over the past years. For the MEE-States it is – amongst other things – all about the determination of the principles, that a State needs for its public administration, in order to guarantee its citizens an appropriate infrastructure, a legitimate working behaviour and an acceptable offer of services. Thus, a conceptional approach has to be in the foreground of further integration of the MEE-States into the EU, which levels off the experiences of the past years with the European promotion of integration and knows how to base a **European administration policy** upon it.

IV. European Administrative Promotion in the MEE-States

Radical help for the development of the socio-economical and security-political bases within the MEE-States and the respective governmental and administrative structures as basic conditions for the success of integration, can only – besides individual efforts of the States of the European Union, which have to be stressed – come on the part of the EU. Their original responsibility already arises from their foundation idea, which is the agreement of the Member States to find a true European unity. Only in this way can a new (economical and/or social) division of Europe be avoided. Therefore, **European solidarity** is once more to be tested.

To demand it, is not as simple, as it may seem. The readiness of the present community for solidarity with Eastern Europe is on one hand dependent on the resistance, which, as compared with tendencies of individual Western European States can be developed into a distinctive clientele policy. So it is not by chance, that France looks at its former colonies in connection with the European expansion, and Spain as well as Portugal have their own economical interests and al-

so the Mediterranean in mind in this process. The European societies – on the other hand – go through serious changes in their political feeling and thinking, which today are already different. The imminent increase of the Member States together with certain tendencies of re-nationalisation, and also inestimable regional thinking makes one want to return to inextensive surveyability. In all of that lies at the same time the seed for future conflicts in an all European integration systems. To be added are the tremendous „social costs“ of the transformation process within the MEE-States. The reason being that the social policy in all States of Middle and Eastern Europe are insolubly connected with the market economy model of the EU. Particularly since economising proves to be – within reach of European Welfare State-thinking – also and especially a genuinely social process.

Admittedly – even from a reversed perspective – many hurdles of a practical solidarity policy exist on part of the community. As yet there are no actual and detailed statements by the MEE-States available concerning the assimilation of domestic legal provisions to European law. At the same time – the tendency appears in outlines in all Middle and Eastern European States, currently associated with the EU, to orientate the undeniable legal assimilation on their respective economical priorities. In contrast, it has to be remembered, that the advancement and joining of the MEE-States to the EU makes a fundamental contribution to the reduction of the social descent between the Union and its neighbours in the East.

1. Competition in the Development of Politics and Bureaucracy

a) If one passes the various efforts over the past years within the MEE-States towards European structural advancement in review, it quickly becomes apparent that the starting-points of the advancement of integration were due to the **public duties** on one hand and finally the **re-structuring of the public service** on the other.

As far as **public duties** are concerned, supranational and national attempts are found without exception, to achieve the new style of the public and private sectors via a re-definition of the respective traditional public duties. The States that have progressed furthest in this process are Middle and Eastern Europe, led by Hungary, as well as the Baltic States. Following are South-East-Europe, the CIS and last of all the Caucasus and Central Asia.

Central meaning has furthermore been attained by the **modalities of governmental control. Decentralisation** in the economy, as well as in the political system, has become one of the main tasks over the past years to ensure their effectiveness and efficiency. Especially the development of local governmental and administrative levels has come to the fore in the MEE-States. These processes demand enormous efforts of the respective political protagonists, which can clearly be shown, as for instance in Poland and the Czech-Republic. There it is in particular all about, not only to arouse an understanding for the necessary decentralisation processes, but also to train their initiation and conversions.

It is not only by chance, that these efforts are connected with the task to re-construct the public service in each of the MEE-States. In the process it has to be remembered on the one hand that no uniform bureaucracy existed in the former Socialist States. On the other hand it also has to be remembered that no responsibilities of the bureaucracies, bound to the Communist parties, existed towards the public. The re-structuring of the public service contains, therefore, in each Reform State the necessity to alter the set-up- and development-structures of the administrations as well as to change the attitudes and behaviour of the „public servants“.

b) If, however, neither single structure-forming „Worlds“ of the administrative modernisation, nor the homogeneity of classical Continental administrations exist, then – as far as the administrative promotion for Middle and Eastern Europe is concerned – nothing stands contrary to the **competition of administrative systems**. And indeed, such a competition of European States and administrations can be registered in the MEE-States in today's administrative reality. **Three models** can be distinguished, which were interpreted to the MEE-States with respect to demand and supply by the individual West-European States and/or the EU. On one hand it is about the „French administration model“ of an elite administration before the background of rigid governmental central structures. On the other hand is the „German administration model“ with distinctive elements of a flexible and de-centralised administration, which, however, is characterised – to an extraordinary degree – by legal structures. Finally, there is the American administration „on offer“ with its well-known affinity to managerialism. This also applies – with variations – to Great Britain, where, with the modernisation of the „Civil Service“ the ideology of a „New Public Management“ has had its advent.

c) Supply and demand regarding the development of the systems and structures, meet initially on a political-ministerial level and thereupon within the respective areas of politics and responsibilities in the administration offices, where they become the subject of a matter of choice. Thereby the MEE-States prefer the competition of the providers, so that they are able to make independent choice decisions. The problem is, however, which model to choose. Even if the governments of the MEE-States rather prefer private management-models and with that the „modernistic“ Anglo-Saxon administration structures, it applies, nevertheless, that one cannot simply „buy“ the bureaucracy of another.

2. On the Road to a European Administrative Structural Policy

The administrative integration within the MEE-States and the former USSR is, however, and on one hand wavering between the demand of the Eastern countries for individuals or groups of people, which are supposed to assist the respective States with the reorganisation of public administration, and on the other hand a certain „tyranny of supply“: The individual Member States of the EU, like for example France, Sweden or even Germany influence bilaterally the administrative development and present their ideas for this. Germany is in this process mainly active with its „foundations“. Moreover, certain affinities exist in the bilateral relations of the administrative cooperation. So has France, for example, a special relationship with Poland and Romania, but also Germany maintains close contacts with these States and also with Slovenia, Hungary and the Czech Republic. The Northern States, however, are closely connected with the Baltic States. The Federal Republic of Germany enjoys in Bulgaria a special trust in its administrative and supportive competency.

a) Above all, the **supra- and international context** must not be neglected. On the contrary, it is pushing itself increasingly stronger into the foreground, encouraged by the prospect of successive economical gains. Numerous external advisors from the USA, Canada and also the UN go to the MEE-States to introduce their respectively individual models for a transfer of institutions. The EU also belongs to this circle of protagonists: It tries to make the development of democratic foundations under the rule of law, and also the customisation of legal regulations to the common standards possible – even beyond the promotion of economical structures – by supportive programs, like TACIS

(„Technical Assistance for the Commonwealth of Independent States“) and the PHARE-program („Poland-Hungary Aid for the Reconstruction of the Economy“).

For PHARE this means specific governmental consultation, and as a consequence, therefore, administrative support. In this, the institutional-organisational process of approximating and joining, which is developing – step-by-step – between the MEE-States and the EU, is being prepared and supported governmentally and executively. The EU, which structures the administrative support by awarding funds to consortia, tries largely to meet the demand of the MEE-States and the successor States of the former USSR: 38% of the funds, which are available to the EU in the PHARE-program, are intended for the mere support of administration. The lion's share of this is claimed by those countries which are – at this point – „in the first row“ with their petitions to join the EU. Those countries, which will unfortunately be slower to join the EU, take a step back against that. Some States, however, have also political difficulties in organising the future of their political system: Due to this Bulgaria and also Romania had to largely bid their farewells to the supra- and international administrative cooperation. But, nevertheless, even here the situation is not hopeless.

b) A **new structural type of European administration policy** forms on the outlined foundations of supranational support efforts. The EU has – through its support programs – recognised the key-role of new administrative structures in advancing the reform countries to the legal and administrative standards of the community. It attaches a first-rate importance to the role of the administrative structural politics in the framework of cooperation with the MEE-States, even if very late. The newly created „European administration support“, which contributes – in the heart of Europe – not only to the setting-up of political and administrative structures, but also to the development of economical structures, shows this. Embedded in this are, moreover, set-up aids for social security, which include social insurance as well as social administration. In the midst of this structural support the setting-up of a pension- and health-insurance as well as a „work administration“ play – for economical reasons – a central part. Also in this respect the EU starts out – with good reason – from the assumption that social security forms an undeniable structure of modernisation in the MEE-States in the sense of an all-European integration.

From all of this, the outlines of a „**European administrative structural policy**“ are recognisable, which initially and – based on a Euro-

pean administrative cooperation – starts off at the coherent meaning of renewal and administrative cooperation. This context is familiar, as it forms – according to article 130 u EGV – the external European administrative cooperation, like, for example, towards the former French colonies and also within the framework of the Lome-cooperation („European politics in developing countries“). Complementary with this, and – at the same time – partner-ship oriented, is it at this point all about the prolongation of this cooperation in the European area, that is „toward the inside“ in connection with the MEE-States. Even if the concept of this **new European administrative support** does not suggest a distinctive inner dimensionality, but instead a strong brittleness, it becomes, nevertheless, gradually apparent that the Union has a growing ability to develop, shape and transform an individually formed **administrative structural policy** in its domestic area, which had not been completely alien till now in this shape.

Based on this knowledge, it is not far from one's thoughts to suspect, that the Union will use this ability, still to be refined, to shape an administrative structural policy all over the Union according to the concentrated interaction between National and European administrative procedural law and administrative organisational law. Occasionally this is already happening, as verified, for example, by the development of European environmental agencies.

3. The Battle and the Personnel

Also and mainly of importance for the success of such a European administrative structural policy in relation to the MEE-States is the **aspect of personnel policy**. The important partial task of re-structuring the public service within the MEE-States can only be accomplished when the „battle for the personnel“ is being carried out.

a) The European structural policy – in the shape of the legal and administrative cooperation with the Middle and East European States – is faced with the problem to orientate their governmental and administrative modernisation on structural models, compatible with Europe, and are faced with the question, which personnel requirements should be subject to the future public service in those MEE-States that want to join the EU. In doing this, it is on one hand all about the farewell in principle to the former socialist „cadre-bureaucracies“. In this respect „modernisation“ means to increase the

abilities and readiness of the public employees to follow – during their daily routine and executive duty – those principles that a democratic community under the rule of law within the constitution needs for the public service. These requirements presuppose more than taking care of the administrative work and qualifying at the same time. Each and every employee and colleague will be required to change their attitudes and build up an orientation of their values on the model of the democratic society. This means mainly the readiness to get involved with the responsibility towards the citizen and the public.

Admittedly it has to be noticed at present, that very little enthusiasm exists for a reform of the public service in all MEE-States and the successor States of the former USSR, if even to varying degrees. How should it be any different? A non-Communist elite, that could take the place of the burdened members of the former bureaucracy, does not exist. Its development is rather a question of generations. It has to be considered, nevertheless, that the former conformity of the members of the socialist bureaucracies was largely forced. Even in the former „public service“, battles were in existence, varying abilities and varying mentalities with very differing degrees of decency. For example: in Poland during the so-called ‘round table’ many have negotiated on the side of the Communists, who then were on the side of the new democratic government. And in many cases those, who were not members of the party, were more zealous servants than some of those who were actively involved in the „apparatus“. Additionally there were many non party-members who – through their conformity – caused more damage than harmless party members. Party membership and bureaucratic membership should, therefore, not be the only measure of judgement. This is also – by the way – the constitutionally demanded position in Germany as far as the personnel of the former GDR-administration is concerned.

Strictly speaking, what it is, therefore, at this point all about, is to create – in a **belated society** – a new public service which takes its own country’s history and national traditions into consideration, but at the same time acts independently, professionally and according to being a State under the rule of law. The administration model of Max Weber especially conveys this desired degree of rationality and efficiency. An inherent prerequisite of this is ,however, a far-reaching neutrality of the public service, which, as a result, balks at private management models, in which the majority of positions are based on political choice. It is, therefore, not surprising that the governments of

the MEE-States are at present more strongly inclined towards the politically „open“ Anglo-American structures of the public service.

A contributory factor is, that meanwhile networks arose between the new elite in the MEE-States and the former socialist „cadres“, whose work conflicts with a general in-depth discussion about the future role of the State and its bureaucracy as well as the question of its principles of construction. The interests of these networks are approached by strongly sectorial forms of administration whose members have a relatively high dependency on politics and which function strongly structurally differentiated in the sense of a certain „colonialism“. It has to be noted, though, that – on the level of a **local administration** – the cognition of the necessity of a professional public service with the guarantee of a neutrality of the employees/colleagues in principle, is more advanced.

c) At present there is a surge of a strong competition in the EU-States for the future structure of the government and administration systems within the MEE-States with regard to this diffused situation. Reforms in New Zealand, Australia or Great Britain, however, have aroused international attention with regard to the possibility of privatisation and deregulation; nonetheless, they cannot easily and without fuss be adopted in several West European States due to their existing national traditions, nor do they develop – as I mentioned earlier – those effects, which are generally insinuated. Therefore it applies in a similar manner in West and East to distinguish between the processes of social differentiation, rationalisation, personal domesticity and liberal individualisation. Especially the processes of individualisation are closely connected to the problem of developing stable institutions – like, for example, a functioning public service – in the MEE-States. For a characteristic of the present governmental and administrative modernisation is the turning to subjectivisation of the institutions. Part of this trend is also that administrative development and administrative structural politics in Middle and Eastern Europe are embedded in the framework of a **strategy of dialogue**. The structural offers of the EU have to identify themselves at the horizon of experience of the development partners in Middle and Eastern Europe. Reforms, like the public service law and/or institutional pluralisation and stabilisation have to respect – in so far – the subjective dimensions of the protagonists.

d) A suitable instrument to have an effect on this, is the education and further education within the public service. It puts partners and

protagonists in the MEE-States into the position to become conscious of the respective conditions of governmental and administrative modernisation. The effort to be „up-to-date“, „modern“ and in any case „innovative“ is accompanied by the chance to recognise the problems and serious consequences of those structural models which are recommended and which one should implement possibly without closer examination. Education and further education are, therefore, – as can be shown by the example of the educational cooperation of the German University of Administrative Science Speyer with the associated Middle and East European States in the administrative sector – an extremely apt instrument, to promote realistic decisions for administrative structures, suitable for Europe, in the government- and administration-staff of the Middle and East European States, and to shoulder the burdens of the East expansion successfully.

E-government and Democratic Legitimacy in the Partnership-based European Constitutional State*

This paper addresses recent debates in the European Union (EU) about electronic government in order to facilitate a realist view to needs of citizens in the coming age of an electronic democracy which will be some inter-linked with the civil society. It is argued that their development is founded on the base of an “information society”. That leads to a special information responsibility of the modern state with a structural change of forms of administration. One of them will be in future the connection of electronic service provision and governmental supplies of information with participating elements of electronic democracy and citizen involvement. As a consequence the level of expectation of the individual in respect of state and administration changes, what includes the political communication. Corresponding demands and activities in their course should be balanced as far as access, supply of information and usability are concerned. There also exist distributional constraints in the EU, especially for the access to information on the Net, for the demand and supply of information and the availability of media competence. In order to avoid resulting problems of democratic legitimacy the EU and their member states have to overcome them by adequate strategies.

1. Electronic government as a new stage of development of the civil society

1.1 “Information society” and the change of state functions

In the present social development that is characterised mainly by scientific technical progress, “information” proves to be the significant raw material for the production of knowledge and the change of order of knowledge.

* Forthcoming in SOCIOLOGIA, PROBLEMAS E PRÁTICAS (Revista do Centro de Investigação e Estudos de Sociologia, Lisboa (Portugal), 2004.

Therefore, it has been rightly pointed out, that the availability of information of all kinds leads to a new “processing of knowledge” in state, administration and society without considering the emphasis or truth of the information content or the growing combination of information (Spinner, 1994: 24-27).

As a result, the **structure of reality** changes in society: data-centred processing of information, which is characterised by international data exchange across the borders and immediate communication, comes to the fore. Forms of virtual socialisation become apparent. As a consequence, a new quality of absorption and processing of information within the civil society develops. The influence of telework and tele-shopping, of information and communication services of all kinds verge on the understanding of space, time and privacy: marriage ceremonies are conducted on television, nights of passion are discussed in talk shows. What is actually still a private sphere? At any rate, the obvious conclusion is, to characterise these and other occurrences as “informatisation” of society (Pitschas, 1998: 140).

1.2 Information responsibility of the state

As a consequence the context of market-economical productivity, globalisation and information on one hand moulds information necessity in the national states or their communicative requirements in supranational communities. With this the innovative information and communication technology (IT) in connection with the “new media” is promoted to a key technology of social progress. It enables information processing developed with regard to quantity and quality, as well as a more intense proliferation of person-related data (Trautmüller, 1999: 23-54).

This knowledge results in consequences for the public sector. New information and communication technology changes the relationship between citizens and the state. Free flow of information becomes as indispensable for the formation of global markets and the effective competition, as for unlimited communication, unrestricted flow of data and open markets which are inseparably connected with the functioning of democracy. Within a civil society democracy survives on citizens taking an active part in administrative and political decision-making processes. Citizens do not just want to be confronted with the results of decisions, moreover, they want to be included in advance in the

processes that eventually lead to the decisions. Only participation of citizens in the variety and transparency of information and communication ensures a civil society. This means **with regard to information** that from now on the state has to inform its citizens more increasingly and differently, in order to actually enable them to exercise their right of self-responsibility which has in principal been granted to them in the developing civil society (Schoch, 2002: 83-96).

This view within the Federal Republic of Germany is not widely held. The discussion takes, on one hand, absurdly the course of arguing about a “perceptual state” and concentrates erroneously on the problem of legal reservations for so-called information interventions (Murswiek, 2003: 1-8) On the other hand, the focus of the discussion mostly narrows down to the use of new technologies in order to create more efficient business processes in public administrations, i.e. the administrative organisational structures. In this way, the Internet becomes already today the engine of administrative modernisation; information systems for citizens, that already exist, are – by means of the concept of the “citizens’ portal” – given a new dimension (Lucke, 2003: 41-62).

The outlined dynamical development perspectives of the information society entrust a specific **information function** to the state. In the 21st century the supply of information to society belongs to the core tasks of the modern state and has to fulfill this task within the context of an **information responsibility of the state**. What this is first and foremost all about, is to enable the citizens to gain information of the private sector and the sector of the state. State and administration are faced with an increasing responsibility for the supply of information to the civil society. To enable decision-making, citizens and institutions of the state have to be supplied with specific information as a guideline, and they have to be able to chose concepts of action in case of uncertainty. Conversely, the citizen will want to make his own decisions in the communicative context of self-regulation and self-responsibility in decision-making. But in order to enable the citizen to do this, he firstly has to be informed about the backgrounds and basics of the decisions, he is supposed to make. This requires the **informing state**. Governmental and administrative communication become prerequisites of informational self-determination within the civil society and for appropriate citizens’ involvement in an “activating state” (Pitschas, 2002: 327-336; Trute, 1998: 216-268).

1.3 Transition to electronic democracy

Before this background it seems necessary to combine the governmental and administrative political meaning of information technology within the framework of the “electronic government” (Street, 2001: 4397-4399) over and above the reference to the structural change of forms of administration – leading into the connection of electronic administrative service provision and governmental supplies of information by the state – with participating elements of electronic democracy and citizen involvement (Lucke, 2003: 63-76). Democracy in a social constitutional state of the Basic Law and citizen participation thus obtain new impulses. They may lead to the vision of a “virtual democracy”, as projects like, for example, “electronic town meetings” in the USA show (Perritt, 1997: 413-482). Independent of these results, it is true, though, that also in Germany of today there is no longer a doubt that electronic governing will have to see its future in the area of this electronic field between administrative efficiency and a democracy that keeps a close relationship with the people: this close relationship with the people via “electronic democracy” is no longer a vision of the future. The Internet has long been functioning as a medium of political communication. Civil society has, in this way, entered a new phase of development (Palmer, 2002: 260-264).

2. Governmental and administrative communication as elements of electronic democracy

In order to contemplate electronic democracy within an inter-linked society (Grossman, 1995; Lenk, 1999: 248-259), one first and foremost has to closely distinguish between state and administration in the 21st century. Over and above this and on the other hand, one firstly has to ask which prerequisites – understood as the use of new media to strengthen political participation and to exchange political information – have to be in existence for the use of the people, so that during the search for the political citizen one does not get stuck in the digital haystack (Hoecker, 2002). After all, the informing state has to aim its supply of communication towards the demand within the civil society.

2.1 Forms of governmental and administrative communication

During the discussion about an integrated e-government – which not only entails the potential for change of information technology for public administration, but also the breadth of models of future public actions – the understanding of “electronic democracy” very quickly and very often narrows itself down to participating elements (Mehlich, 2002: 281-283). Nevertheless, it has to be kept in mind, that electronic governmental and administrative communication with the citizen go beyond traditional forms of political participation: because it is also about finding the answer to a wide-spread participation of the citizen, that enables the individual to actively and virtually take part in decision-making processes. Apart from mere participation, it is all about **virtual participation of the citizen** (Bieber, 2000: 70). Thirdly, however, the state with its administrative system has to take into account the widespread uncertainty of supply of information within the “risk society”. In this respect, it is about the governmental management of risky information by means of recommendations, warnings or similar advice by the state (Pitschas, 1997: 215-263). It is clear, that for all three dimensions of governmental and administrative communication, the **access to information** is of outstanding importance. Therefore, regional authorities – with regard to their partnership with the information society – are challenged to take care that all citizen have the broadest possible access to sources and technologies of information. Unrestricted and equal access to electronic information (“e-accessibility”) is a fundamental element of the **partnership-based constitutional state** in the era of e-government (Trute, 1998: 242-244; 249-257).

2.2 Citizens' expectations

The possibilities of supply of information, interaction and transparency, however, also lead to a changed level of expectation of the individual within the civil society in respect of state and administration. This not only concerns passive, but also active possibilities of participation in information. As far as the active possibilities are concerned, information technology offers, like never before, the opportunity to immediately and directly contact public institutions and political representatives. Included in this is the political communication with parties, e-mail trafficking with members of parliament and as far reaching

as Internet questionnaires, the setting up of chat-rooms and virtual party conferences (Rogg, 2001: 38-44). An informing democracy requires digital political information (“e-politics”).

The electronically informed citizen is also not an abstract ideal, as it might seem. He is reality, as far as he is able to obtain a variety of background-information for politically important issues or party-political opinions. Communication supported by the Internet should not be overestimated; its existence does not necessarily mean an increase in democracy, but, nevertheless, the chance exists for a virtual enrichment of democratic processes of the formulation of political demands and objectives and decision-making (Philippsen, 2002: 138-150; Cranor, 2001: 1-8).

2.3 A balanced e-government

These processes obviously have to be **balanced**, as far as access, supply of information and usability are concerned. E-democracy does not only mean virtual inter-linking of party-political advertising with civil interest or the lack of it. The individual will only participate in politically strategical concepts of civil-governmental developments and decision-making processes of the parliamentary democracy – also on a local level –, when the communicated contents are also geared towards the individual’s own requirements or expectations. The readiness of the citizen to participate politically, therefore, requires, on the part of politics, that the citizen is included in political decision-making processes; the participation of citizens on the Internet requires the transparency of these processes. An active participation of the citizen also requires the possibility of one’s own participation in decision-making. It is, therefore, not only about the supply of information, but also about imparting (limited) ad-hoc activities to the citizens with regard to involving them (von Ameln, 2001: 381-391).

3. Distributional constraints on e-government

I have already pointed out, that for an essential e-democracy within a constitutional state that is based on partnership, adequate prerequisites have to be created. Belonging to these are, on the one hand, the opening of the **access to information and the Net**; no section of the

population should be excluded from the information society, when Europe develops into an economy, based on knowledge. Secondly and on the other hand, participation in e-government on demand requires a sufficiently available **media competence**.

3.1 Access to information

All three prerequisites are not readily acceptable. Even the safeguarding of the access to information means a far-reaching and lengthy re-organisation of the appropriate structures and processes of information in Germany. Access obstacles exist first of all in the **degree of Internet use**. It is not evenly distributed amongst the different sections of the population. Only approximately 38.9% of the population make use of the Internet regularly. Only a meagre third of these users are women. Moreover, in Germany mainly young sections of the population, well-educated people and high-income groups make use of the Internet. Excluded from online-trafficking are mainly older people and those with lower education (Emmer, 2001: 1-12).

A special example for such a “structural digital divide” is the information exclusion of handicapped people. According to conservative estimates, there are 37 million people within the European Union – that is approximately 10% of the EU population – who are suffering in one form or another from a handicap, for example problems with mobility, hearing, speech, eyesight or a mental handicap. An equally important group is the ageing population in the EU, especially as cognitive and functional handicaps increase at an older age. By the year 2020 – according to estimations – 25% of the population will be over 60 years of age. In the “greying Europe”, therefore, means of access to new technologies will have to be created for older people and those with handicaps in order to integrate them into the information society (European Union, 2002).

The EU has thus developed a co-ordinated approach to achieve e-accessibility that is aimed at technology and standards and includes not only legislation, but also education and other governmental and institutional persons involved (Koch, 2003: 333-349). A recommendation has been made by circles of the EU commission to improve e-accessibility within the framework of EU politics in order to realise human rights and social integration (Spalek, 2002: 5-6).

Apart from these, additional problems are not only the responsibility of the state to act, but also the chance to promote new media and increase the competency to use them. As many ways of distribution as possible have to be created to reach all sectors of the population and include them in the political process. In all states of the EU, therefore, the so-called “multi-channel (media)-campaigning” and digital television has repeatedly and rightly been pointed out (Hagen/Wind, 2002: 349-353). It is, therefore, to be suspected that the fear of communicating via the new media is for many people far greater than dealing with the familiar medium “television”.

3.2 Media competence

A further prerequisite for the transition to e-government and e-democracy is sufficient media competency. The citizens within the information society, for whom an appropriate governmental and administrative communication is indispensable, have to be able – with the increasing flood of information – to examine the reliability of information. It would be misleading to assume that communicating information via the Internet could do without “filtering” communicated data. As far as this is concerned, there is no difference to the traditional media society. Computer-communicated participation, therefore, requires, as well as active virtual citizen participation, the capability to use and evaluate information (Kloepfer, 2002: 124-132). In this lie “countervailing powers” to the growing customer-relationship-management of the political persons involved within the framework of a present promotion of e-democracy.

3.3 Demand and supply of information

Those who take virtual democracy of the information society seriously, have – as a state and administration – to exhaust the possibilities of interaction that are contained in the “new media”. In order to communicate political information it is, nevertheless, not sufficient to trust the citizens to use the supply of information or to develop their own initiative to achieve the desired citizen participation. Nowadays, citizen participation on a local level in the traditional sense, only reaches small, well-organised groups or their representatives, and this obviously does not represent a raised public opinion and participation.

Therefore, it has to be ensured that the use of specialist and political information **online** is aimed at the demands and requirements of the users. In this respect, it might be possible, in deed, that an appropriate information management could do wonders (Lenk, 1999: 263).

All three prerequisites of the e-government have to be fulfilled jointly. A guaranteed access to the Net would be unsuccessful, if participation in the information democracy did not consider the interests of the citizens. Electronic democracy, therefore, requires a **balanced e-government** (Bertelsmann-Stiftung, 2002: 10).

4. Problems of democratic legitimacy of an unbalanced e-government

An indispensable prerequisite for the **legitimacy of the e-government** is an equal and unlimited access of all groups of the population and of all citizens to information technology. An “information exclusion” of any kind of citizens is not allowed to exist in a society that is based on freedom and equality. Otherwise, politics and the state, which rely on information, transparency and interactions while developing a citizens’ society, would lose their legitimacy (Kloepfer, 2002: 127, 128).

The danger of political institutions losing legitimacy also occurs, when the citizen gets swamped with a flood of information that he is not able to cope with without a minimal degree of media competence. This entails mainly the capability to evaluate information according to its meaning and to categorise its context. It is, therefore, a matter of legitimisation of e-democracy to achieve this capability. An educational and media policy is required which imparts the maximal level of media competence and thus is able to ensure participation in the e-government (Beck, 1998: 131-136). Part of this also is, nevertheless, that the meaning of so-called political portals has to be analysed ever closer and, if needed, has to be changed during the development and strengthening of e-democracy concepts. After all, the informing state has to demand a specific online-responsibility of the persons involved. Origin, authenticity and, at the same time, reliability of information has to be guaranteed as well as a relevant representation of opposing positions in political portals (Reinermann, 2002: 127-137).

Finally, the relationship between demand and supply of information has to be taken into consideration. Virtual participation of the citi-

zen requires adequate information. This has to consider the development of an individualized society, the changing of political habits of participation and the appropriate introductory resistance against e-democracy. In this sense, expectations and legitimate demands by the citizen have to be integrated into an e-government (“integrated e-government”).

5. Distributional constraints on a balanced e-government and the way to overcome them

5.1 Safeguarding legitimacy

The **legitimacy of electronic democracy** will be formed in a lengthy and differentiated process within the civil society. A variety of concepts, ideas and suggestions are required for a direct citizen participation in political decisions via the use of new media. A component of these and focussing on e-accessibility, are mainly strategies that give unlimited access to the products of information technology and, in this way, help people with special needs to improve their capabilities and work qualifications and thus strengthen their integration into a knowledge-based society. The EU is, as far as handicapped people and other groups of the population are concerned, well on its way.

Another way is the development of so-called **citizen portals**. Via these, citizens are enabled to participate in local political decisions about the development of districts, towns and cities and municipalities. Over and above, suggestions can be worked out, that make differing means of active participation of groups of the population in local representation or political self-determination possible for honorary and similar activities (Lucke, 2003: 60, 87-89).

A third way could be to develop local citizen panels as a means and vehicle of online-communication in the sense of an e-democracy. Such ways formulate simultaneously some distributional constraints for a legitimate e-government. If these are not observed, illegitimacy of e-democracy becomes a threat.

5.2 Safeguarding legitimacy via a right to information

Part of the prerequisites of the legitimacy of an e-government is the observance of the **constitutional framework** in Germany, especially in view of the users' access to information. The informational basis of the right to live one's life contains within this and beyond, the resulting judicial claim to oppose the right to information. Following this, the central component of every information order is the **freedom to information** that is at the same time closely connected to the informational right of self-determination, as far as it develops, and objective and legal dimensions (Kloepfer, 2002: 64-117; Scholz/Pitschas, 1984).

As a result of its impact, the use of a basic informational supply in a wider sense has to be secured by the state. This does not only have consequences for the transparency and openness of administration, but also and at the same time for the safeguarding of access to the information infrastructure and the access to the Net. In this way the state is faced with a constitutionally based responsibility to provide information. It includes on the other hand the governmental duty to provide access to the information that is necessary for individual and governmental communication, to enforce appropriate structures for a certain minimal standard of information and altogether to create a governmental supply of information. Furthermore, the observance of these legal duties of politics, state and administration, contribute significantly to the legitimacy of e-government and e-democracy.

Bibliography

- Ameln, Günter von* (2001), Elektronische Demokratie. Neue Möglichkeiten für die Ausweitung der demokratischen Partizipation der Bürger, in: Walter Gora/Harald Bauer (eds.), Virtuelle Organisationen im Zeitalter von E-Business und E-Government, Berlin/Heidelberg/New York, Springer, pp. 381-391.
- Beck, Manfred* (1998), Öffnung der Schule – Nutzung und Nutzen „neuer Medien“ im Bildungsbereich, in: Jarren/Krotz (eds.), Öffentlichkeit unter Viel-Kanal-Bedingungen, 1998, pp. 131-148.
- Bertelsmann Stiftung (2002), Balanced E-Government, Gütersloh 2002.
- Bieber, Christoph* (2002), Revitalizing the Party System or Zeitgeist-on-line? Virtual Party Headquarters and Virtual Party Branches in Germany, in: Peter Ferdinand (ed.), The Internet, Democracy and Democratization, London/Portland (Oregon), Frank Cass, pp. 62-76.
- Cranor, Lorrie Faith* (2001), Electronic Voting, in: Paul Rojas (ed.), Encyclopedia of Computers and Computer History, Dearborn, Fitzroy.
- Emmer, Martin* (2001), Elektronische Agora? Digitale Spaltung? Der Einfluss des Internet-Zugangs auf politische Aktivitäten der Bürger. Ergebnisse einer empirischen Untersuchung, Paper to the 46th International Scientific Colloquium, Technical University Ilmenau, September 24 – 27th.
- European Union (2002), Document SEK (2002) 1039: Creating eAccessibility, Brussels.
- Grossmann, L. K.* (1995), The Electronic Republic. Reshaping Democracy in the Information Age, Harvard.
- Hagen, Martin/Wind, Martin* (2002), Multi-Channel-Management, in: Verwaltung und Management, Vol. 8, 6, Baden-Baden, Nomos, pp. 349-353.
- Hoecker, Beate* (2002), Suche nach dem politischen Bürger im digitalen Heuhaufen, Frankfurter Rundschau v. 08.02.2002, Frankfurt a. M.

- Kloepfer, Michael* (2002), Informationsrecht, München, C. H. Beck.
- Koch, Christian* (2003), Arbeitsebenen der Europäischen Union. Das Verfahrensrecht der Integrationsverwaltung, Baden-Baden, Nomos.
- Lenk, Klaus* (1999), „Electronic Democracy“ – Beteiligung an der politischen Willensbildung, in: Herbert Kubicek et al. (eds.), Multimedia@Verwaltung. Jahrbuch Telekommunikation und Gesellschaft, Heidelberg, Hüthig, pp. 248-256.
- Lucke, Jörn von* (2003), Regieren und Verwalten im Informationszeitalter, Berlin, Duncker & Humblot.
- Mehlich, Harald* (2002), Electronic Government, Wiesbaden, Gabler.
- Murswiek, Dietrich* (2003), Das Bundesverfassungsgericht und die Dogmatik mittelbarer Grundrechtseingriffe, in: Neue Zeitschrift für Verwaltungsrecht, Vol. 22, 1, München, C. H. Beck, pp. 1-8.
- Palmer, Christoph-E.* (2002), Umfassende E-Government-Strategien unter Einschluss von E-Democracy, in: Verwaltung und Management, Vol. 8, 5, Baden-Baden, Nomos, pp. 260-284.
- Perritt, H.* (1997), Cyberspace Self-Government. Town Hall Democracy or Rediscovered Royalism?, in: Berkeley Technology Journal, Vol. 11, pp. 413-482.
- Philippson, Michael* (2002), Internetwahlen. Demokratische Wahlen über das Internet?, in: Informatik-Spektrum, Vol. 25, 4, Heidelberg, Gesellschaft für Informatik e. V., pp. 138-150.
- Pitschas, Rainer* (1997), Staatliches Management für Risikoinformation zwischen Recht auf informationelle Selbstbestimmung und gesetzlichem Kommunikationsvorbehalt, in: Dieter Hart (ed.), Privatrecht im „Risikostaat“, Baden-Baden, Nomos, pp. 215-263.
- Pitschas, Rainer* (1998), Informationelle Selbstbestimmung zwischen digitaler Ökonomie und Internet. Zum Paradigmawandel des Datenschutzrechts in der globalen Informationsgesellschaft, Datenschutz und Datensicherheit, Vol. 22, 3, pp. 139-149.
- Pitschas, Rainer* (2002), Die Reform des Datenschutzrechts in Deutschland, in: Rainer Pitschas/Shigeo Kisa (eds.), Internationalisierung von Staat und Verfassung im Spiegel des deutschen und japanischen Staats- und Verwaltungsrechts, Berlin, Duncker & Humblot, pp. 327-336.

- Rogg, Arne* (2001), Computervermittelte Partizipation und die großen deutschen Parteien, Kursbuch Internet und Politik, Vol. 1, Opladen, Leske + Budrich, pp. 38-44.
- Reinermann, Heinrich* (2002), Internetportale in der öffentlichen Verwaltung: Die Neuordnung von Informationen und Geschäftsprozessen, in: Karl-Peter Sommermann/Jan Ziekow (eds.), Perspektiven der Verwaltungsforschung, Berlin, Duncker & Humblot, pp. 127-137.
- Schoch, Friedrich* (2002), Die Rolle des Staates in der Informationsgesellschaft, in: Dieter Leipold (ed.), Rechtsfragen des Internet und der Informationsgesellschaft, Heidelberg, C. F. Müller, pp. 83-96.
- Scholz, Rupert/Pitschas, Rainer* (1984), Informationelle Selbstbestimmung und staatliche Informationsverantwortung, Berlin, Duncker & Humblot.
- Spalek, René* (2002), Menschen mit Behinderungen verlangen Zugang zur Informationstechnologie, Sozial Agenda, Brussels, EU-Commission, pp. 5-6.
- Spinner, Helmut F.* (1994), Die Wissensordnung. Ein Leitkonzept für die dritte Grundordnung des Informationszeitalters, Opladen, Leske + Budrich.
- Street, John* (2001), Electronic Democracy, in: Neil J. Smelser/Paul B. Baltes (eds.), International Encyclopedia of the Social & Behavioral Sciences, Vol. 7, Oxford, Elsevier Sciences, pp. 43-97.
- Trautmüller, Roland* (1999), Annäherungen an die Verwaltung aus der Sicht der Informatik: Technikpotentiale und Systemlösungen, in: Klaus Lenk/Roland Trautmüller (eds.), Öffentliche Verwaltung und Informationstechnik, Heidelberg, R. v. Decker, pp. 23-54.
- Trute, Hans-Heinrich* (1998), Öffentlich-rechtliche Rahmenbedingungen einer Informationsordnung, Veröffentlichungen der Vereinigung der Deutschen Staatsrechtslehrer, Vol. 57, Berlin/New York, De Gruyter, pp. 216-273.