

A COMPARATIVE ANALYSIS OF PUBLIC SERVICE INNOVATION AND REFORM IN SEVERAL EUROPEAN STATES

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Abstract: *Innovation and reform of the public service has become one of the fundamental topics debated more and more often by researchers, professionals and political people alike. The importance of this subject comes from the necessity of a continuous adaptation of public administration and its services to the citizens' needs and demands. Public administrations all over Europe have tried to accomplish their tasks in the domain of public service, but have encountered serious challenges in solving societal needs. Considering the global and national context in which member states of the European Union have made efforts to ensure the delivery of public services, the present article intends to offer an analysis of the various ways and solutions applied in the reform of the public service by several European states, and of the role played by innovation in this domain. The analysis will be made against the background represented by the juridical regime of public service established by both the European law and the law of the states under study.*

Key words: *innovation, public service, reform, public administration*

1. Introduction

The present paper proposes an analysis of specific directions and tendencies of the process of reform taking place within the public sector, in several European states, with a special focus on the reform of public services and on the innovative solutions applied by governments and various other agents involved in this process. The fundamental premise of this analysis is that all the reforms in the public sector have to be examined and explained against the backdrop of their respective political-administrative and socio-historical context. Scientific research in the field proves the high degree of complexity and variety of the political-administrative organization of the European countries, a fact that makes the study and classification of their public service reforms equally complex and varied.

This aspect has been number of times highlighted by specialized literature that insists on the impossibility to speak of standardized models. Nevertheless, efforts at

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categorizing and at establishing phases and fundamental features of these processes have been made and their results serve as a tool for a better understanding of the subject and as an incentive for further investigation.

The thematic of the public service in the European law and law of other countries, that are members of the European Union (EU), as well as their specific features and goals as a fundamental activity of public administration, offer many aspects and many directions of analysis, particularly during this new stage(s) of the evolution and transformations of public administration. These profound changes of public administrations across the world have been determined by a series of both global and national phenomena that exerted a huge pressure on the governments and political decision makers. The main threats most frequently identified and discussed by scholars that had a great impact on the public sector and public administration are: demographic and climatic phenomena, the constant increase of the public debt, the great economic crisis and the unprecedented crisis of the migrants (a process which had never known such a range in Europe). Added to these general unfavourable background conditions, there have been some new aspects determined by the current social realities and which have been classified as new 'categories of risk' (Sirovatka, Greve, 2016). These so-called 'categories of risk' are related to situations such as: professionals confronted with a sudden loss of employment, followed by the impossibility of reinsertion on the labour market, the incompatibility between professional training and the new forms of employment, or (more and more often) single parents striving to find the right balance between their professional life and their parental status (these examples are only a few of the new forms of risk, their list is evidently much longer).

Confronted with these new issues, public administrations have been forced during the past decades to find solutions. These solutions have often been innovations that have been applied within a larger framework of the reform of the public sector in an effort to 'make' public services adapt to the social needs and expectations of the citizens. The comparative method and the qualitative evaluations of relevant studies in the field have been the main methodological tools that stood at the basis of this article.

2. The Concept of 'Public Service' in EU Law and other European Countries

The scientific terminology used in the domain of public service in European countries is extensive and very varied, a fact that requires special attention and imposes the necessity of definitions and delimitations of meaning in order to clarify the numerous senses and uses of the concept.

A short overview of the different notions and their meanings used to refer to the same reality, that of the public service, in different European states, reveals significant similarities and differences. Scholars (Wollmann, Marcou, (eds.), 2010; Wollmann, 2011) remarked the use of concepts like 'public service', 'economic public service', 'service of public utility', and more recently, in the EU doctrine, that of 'services of general economic interest' or 'service of general interest'.

The concept of 'service of public utility' is specific to the United Kingdom (and US) law, and it was also retained by the Italian doctrine and legislation. The Italian expression used with this meaning is *servizi di pubblica utilità* (since 1995), in contrast to the

concept of *servizi pubblici* that represents the general notion. In the French law, the equivalent of this syntagm is *service industriel et commercial* (often used in the plural, *services industriels et commerciaux*) which stands in close connection with the notion of public service (in French, *service public*) which is a fundamental notion of the French public law (Wollmann, Marcou, (eds.), (2010), pp. 1-2; Wollmann, 2011, p. 891). The German corresponding term is identified as *Daseinsvorsorge*, and it has the main sense of: services that ensure the 'provision for existence'.

In the EU law, *The Treaty on the Functioning of the EU* introduced the concept of 'services of general economic interest' or 'service of general interest' (TFUE, Art 106 (2)), a notion that was previously mentioned in the Treaty of Rome. The introduction of this provision was considered as a pressure from the part of the EU on the member states in order to make them adopt the principles and practices of market liberalization in the domain of public service. This action raised intense debate in many European countries (in particular, France) around the matter of public services as a concept and as a fundamental activity carried out by public administration. Subsequent evolutions determined a decrease of the pressure exerted by the EU, a fact demonstrated by the introduction of the Protocol 26, annexed to the Treaty of Lisbon in 2009. According to this new provision, the EU acknowledges both the important role and the extended competence of the national authorities (including local and regional authorities) in the delivery, commissioning and the organization of their public services, in order to satisfy the diverse requirements and expectations of their citizens. This means also the acceptance of the great variety of public services and of the needs and preferences of the citizens, understood as a natural consequence of the diversity of the social, economic and cultural environments in which they live. This text is considered by the specialized literature as a proof of the EU recognition of the discretionary power of the national states (and of their local authorities) to decide over the juridical regime according to which the public services are organized and delivered.

In this way, the diversity and originality of the juridical regime of the public service in the European states has been considered one of the fundamental features of public service and has been pointed out by researchers. The originality of this regime is fundamentally influenced by the different models of organization of the public administration in the member states. In this sense, the public authorities responsible for the organization and coordination of public services may be situated at various levels of the administration, respectively: the central level (the government as main authority of the central public administration), the level of federated states, regions, and other local authorities. Another important aspect (characteristic to the regime applied) is represented by the form of control, which can be classified as direct control (exerted by an authority of the public administration as in the continental model) or the form of control exerted by an independent body which is created or assigned by the government (new British model). Finally, there is also the criterion of the operator of public service which can be: a public administration authority, functioning at national or local level; a public or private firm, having national monopole; great private firms or small private organizations with different juridical statuses.

The classification of the juridical regimes takes also in consideration the aspect of the

legal framework which establishes the organization, the mission and the ways in which the activity of the public service is carried out. This legal framework may be substantial and detailed, or, on the contrary, vague and attenuated, it may be formal and implicit, and established by normative acts (such as statutes, regulations and contracts), or simply by private agreements and custom.

According to the above-mentioned criteria, there are several categories of public service regimes (Public Undertakings and Services in the European Union, http://www.europarl.europa.eu/workingpapers/econ/w21/sum-2_en.htm):

- A first group of states is formed of France, Belgium, Greece, Italy, Luxemburg, Spain, Portugal (and we add, Romania). In these countries, the concept of public service is clearly regulated according to a substantial legal framework. The operator is usually a great company that has strict obligations (established by a statute) and in which the state detains the monopole.

- A second group of states is represented by Ireland and Great Britain, where there is a strong trend towards privatization and deregulation (particularly in Great Britain). The operators are, for their great majority, private ones, and have to follow rules and regulations imposed by independent agents (not public authorities), although there are still some areas where public property rights continue to exist and reasons of general interest are still taken into consideration.

- The group of Northern countries, like Denmark, Germany or the Netherlands is characterized by a regime where the operators of the public services are public authorities of the central administration, but also of the local administration. These public operators play a fundamental role and exercise a direct management over the public service, but at the same time, there is an accentuated tendency towards the privatization of an important part of the public services.

The existence of this diversity of organization, coordination and delivery of public service in the European countries, accepted by the EU, is dependent upon the socio-political context and the administrative model of organization existing in these countries. This fact has determined different trajectories of the reform processes carried out in the public sector.

3. Brief overview the Public Sector Reforms in Europe

The assessment of the reforms taking place everywhere in Europe has become a topic of renewed interest, after the global economic crisis (Kopric, Wollmann, Marcou, (eds.), 2018). Motivated by a great array of reasons, reforms have become quite frequent in the last years. Many of these reforms have had as a starting point the continuous demand to respond to citizens' needs and aspirations. Austerity measures imposed by the constriction to cut down public spending have not been so effective, whereas the necessity to ensure quality services for the citizens remained a fundamental task of public administration. There seems to be a new approach that underlays the new reforming measures, namely a set of values that are inscribed in the principles of good governance as defined by the EU (Kopric, Wollmann, Marcou, (eds.), 2018, p. 2; Kopric, 2017).

The reforms in the public administration of many of the European countries have been

prompted by the new wave of theories of governance, known as 'New public Management' (NPM). In contrast to the classic model of administration, the innovative NPM model proposes the adoption and transposition in the public sector of the principles and practices of management that are specific to the private sector. Stimulation of competitiveness, delegation of the management of public service, focus on the increase of performance and reduction of the time of response of public structures and authorities, were the main tools used to determine an adjustment of the bureaucratic behaviour and the growth of resources (Robinson, 2015). Performance management became a universal instrument of the evaluation of activities carried out by public administrators. The NPM reforms were applied with the goal to improve the quality of public service, make governmental actions and policies more effective and reduce public expenses (Mongkol, 2011; Pollitt and Bouckaert, 2000).

An important remark to be made is that the NPM was adopted first of all in OECD member states, and then in other countries. The consequences of this model have been unequal and difficult to quantify, and despite claims of universality, there are scholars who sustain the lack of a uniform implementation of the model (not even in the OECD countries) and its limited effects (Robinson, 2015; McCourt, 2013, p.11).

Contracting-out the service to private suppliers or non-profit organizations has become a frequently used practice, but its implementation has been different from case to case, so that the results obtained were mixed. In practice, principles specific to the NPM model have been used in parallel with the classical principles and structures of public administration. This combination of solutions, made scholars object to the claims of total success of the NPM reforms and affirm, instead, the reduced efficiency of this system. The essential conditions that may ensure the successful implementation of NPM reforms would be the consolidation of the administrative capacity and manifestation of political support (McCourt, 2013, p.16; Nunberg, 1997). Other critics raise the question of the ethical, political, constitutional and social dimensions of public service and administration which makes the public sector fundamentally different from the private sector (Pollitt 1990), whereas others point out that the practices of the private sector are very rarely used by governments (Savoie 2002).

Another set of reforms presented by the scientific literature in the field is analysed under various names, like 'New Public Service' (NPS) or 'New Public Governance'. According to these new theories, the state is no longer seen as a unique actor, but as a plural entity made up by multiple agents involved in governance. The government loses its role of singular provider and administrator of public services. The NPS approach focuses on the democratic theories of active citizenship, which implies that citizens are involved in the co-production or co-creation and delivery of the services that ensure the satisfaction of vital social needs. The NPS model proposes a management that concentrates on the citizens' needs and aspirations and one of its core values is the idea of solving the problems together from the perspective of public interest and not individual interest.

The analysis of these models of reforms reveals that they contain significant new elements (new perspectives, concepts, values, mentalities) that may offer important solutions to the issues raised by the necessity to improve the quality of public services,

as long as these solutions are applied in accordance with the specific characteristics of the model of public administration of the respective state.

4. Public Service Innovation Trends in Europe

The notion of public service, by its contents and its forms of organization, represents an essential activity of public administration, and has known a gradual development that reached its highest point in the midst of the 20th century (Bălan, 2008, p. 127).

The establishment of the 'welfare state' in most of the West-European states, at the beginning of the 1970's, corresponds to the stage of evolution in which the public services were mainly organized by the public sector (at the national or city level). The main tendencies specific to this stage are the 'nationalization' of important services (for instance the nationalization of the energy sector in France in 1946, in England in 1947 and in Italy in 1962) and a strong development of public services (including the social ones) at a local level. At this point, it is considered, that, there is a quasi-monopole of the public sector over the public services (Bălan, 2008, p. 127). The main reason of this type of organization is the possibility to ensure a direct or indirect control exercised over the public services by elected public authorities, especially the autonomous ones, functioning at the local level of administration, since these authorities act like guarantors of the accomplishment of the general interest and of the political will.

This tendency would radically change, in the next phase that started after the Second World War, when the domination of the public sector in the delivery and organization of public services was discarded, as a consequence of the propagation of the theories known as 'New Public Management' (NPM). The decade between 1980 and 1990 was also characterized by market liberalization (under the influence of the neo-liberal doctrine) sustained also by the EU institutions. These new developments determined a marked horizontal deconcentration and a multiplication of the structures and organizations involved in the delivery of public services.

These new trends in the domain of public services have manifested in several processes and modes of organization. One of these new modes is known as 'corporatization', in which the activity of public service is transferred to an autonomous organization which is also financially independent, but still owned by the local authorities or 'municipalities'. Another modality is the 'outsourcing' or 'contracting out' of some functions to external suppliers, preferably from the private commercial sector. The process involves also the privatisation of the material resources and of the operator and of the owner of the service that becomes entirely private. The result is again the multiplication of the suppliers of services at a local level, but motivated by private and economic interests, and not by the satisfaction of a public need. Another important difference is that the suppliers are not subjected to any hierarchy or influence of the public administration elected authorities which is specific to the public sector. This weak influence of the public administration represents one of the most serious challenges for the elected authorities who act on the basis of political rationalities, amongst which the principle of achievement of the general interest.

Another important and very recent evolution took place in Great Britain, and was set off by the neo-liberal policies implemented by Cameron in 2010, known under the name

of 'Big Society'. This new trend is characterized by a growing involvement of social agents from the tertiary sector in the delivery of public services. The neo-liberal British policies intended a transfer of the financial and operational responsibilities from the upper level to the bottom level (from 'top to bottom'), from the public sector to the society, mainly to each individual, family or other social agents. This fact stimulated local initiative and a growing involvement of organizations of the cooperative type ('co-op') and social enterprises. These new actors became involved also as a reaction to the austerity measures applied by the government in order to reduce public spending.

A new form of organization and coordination of public services that can be identified in recent years and this phenomenon has been called by specialists in the field 'remunicipalisation', which implies a 'return' of the public service under the coordination of municipal authorities. The main factors that stirred this process are: a decreasing trust in the superiority of the private sector and in the neo-liberal policies, a stronger political will of the municipal authorities and their growing interest in the delivery of public services and the use of resources obtained, a change of the socio-political values which favours a consolidation of the role of the public sector (particularly of the local public administration authorities), as well as an accentuated pressure of the local communities through local referenda.

There are scholars (Kuhlmann and Wollmann, 2014, p. 200) who call attention to the fact that the 'remunicipalisation' trend does not have to be generalised, and has to be analysed in the socio-political context of each country. Thus, in countries like Germany, there is an obvious tendency towards the 'remunicipalisation' of public services particularly in the energy sector, a domain in which the municipal companies *Stadtwerke* have regained their functions. In France, for instance, the municipal authorities have showed moderate tendencies to take over the delivery of public services, in the sector of renewable energy.

These new ways of organization of public services prove that changes in the processes of government are closely related to changes in relations, processes and social values. Once there has been a manifested interest in the way actors get involved and take responsibility for the part they play in the delivery and organization of activities of public interest, innovative answers to social problems have been found. The particular circumstances of each politico-administrative system have determined in a substantial manner the evolution of the public service and the implementation of innovative solutions.

A concluding remark (which expresses the point of view of many other researchers) would be that the choice of any of these models or solutions of reform has to be adapted to the realities of the country in question. The true success of public service modernisation can be accomplished by applying hybrid models that combine the features and perspectives of more than one type of reform. The option for combined or mixed models seems to be the only feasible one in a context marked by phenomena of high risk for the public administration. And last, but not least, there cannot be a true reform of the public service without placing the citizens' needs and ideals at the core of the principles and values of the governance act.

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