
CIVIL SERVICE LAW AND INNOVATIVE PARADIGM OF ADMINISTRATION IN GOVERNMENTAL INSTITUTIONS

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Abstract. The article is prepared according to the same name author's monographic work. Under economic globalization and economic conditions, there are completely new scientific study subjects – public and private interests as well as their interaction and competition. The article reflects the new social phenomenon: to innovatively develop and reform the twenty-first century Public Administration (statutory) bodies. The author reveals the democratic legitimation of market mechanisms and the interoperability issues, creating preconditions for meaningful implementation of the new public administration and public management. The subject matter is wide and presents a study of a more limited objective – to define the managerial (social) public interest, its implementation measures, and recent trends.

Keywords: civil service law, state statutory services, socially responsible activity, public and private interests.

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1. Introduction

The starting point of social processes studies is a consistent pattern of social development revealed by human theories. These are universal requirements, which are to be obeyed by state statutory services. The reform based on a social consistent pattern is the main guarantee of its success. A new public administration supposing democratic legitimacy and market mechanisms is a feature of a new administrative paradigm of state statutory services analyzed in this study. Academic necessity to analyse state service and business, interaction between public and private interests in a new state services administration context was an unofficial trigger for this study to appear. The author raises a hypothesis: contrasting of public and private interests in the fields important to a society misrepresents a vision of the legal administrative state and becomes an obstacle to perform a mission entrusted by the state. The subject of the study “Civil Service Law and Innovative Paradigm of Administration in Governmental Institutions” is a solution to the problem of interaction and competition of public and private interests by creating

and reforming institutions of public administration in the XXI century. The topic is too broad; therefore, the author takes as a goal to define public interest of administrative state, tendencies of implementation means development.

Certain questions arise when creating and developing traditions of Western culture: are there any changes and if they are – towards which direction does a way of society thinking change, can we forecast tendencies of democratic state and development of society, which would encourage absorbing traditions of old-timers European Union member states how to organize and create coexistence and wellbeing. The author presumes: if attitudes towards business and enterprise are not changed, a master-key to open the door to wellbeing will not be found.

Process of modernisation of state statutory services by introducing methods of new public administration does not provide for a new model of public administration and cannot be evaluated as a separate paradigm as there is no “pure” data on public administration, according to which economic criteria in a public sector could be valid without any obstacles. Neither there are any spheres, into which elements of such modernisation could not be introduced as the state just like enterprise is always supposed to act in an economic and efficient way (Thom, Ritz 2000). Therefore, the study does not present any innovative theory; it only attempts to cover gaps of modernization of activity of state statutory services.

The author employs schemes and pictures to make it easier for the reader to understand the content of the book, clear the shape of the issues analysed in the study, structure the research data, and establish links between the theory and practice. Figs 1 and 2 cover all parts of the book and serve as a matrix. Fig. 1 and its variations reveal the essence of the study, covers chapters, subchapters and research data of the monograph and unifies them into one study. It also presents the subject of the study, which is the interaction between public and private interests, which marks the reason of modernization of the public administration. It also structures the main ideas of modernisation of administration. Interaction between public and private interests is defined as the reason for integration of social sciences.

Besides, in a wide variety of administration theories this picture helps marking the main questions, which are of importance for modernization of state statutory services. The book also alerts that the main methodological task is to properly choose concepts of development in order to reform public administration and activities of these specific state institutions. The Fig. 1 attempts to draw the reader’s attention to the author’s choice of three integral spheres of the issue analysis: legal regulation (Petrylaite 2008), innovative administration (Grundey *et al.* 2008) and professional ethics (Juscius, Snieska 2008). They are presented in the study as instruments closely related to each other – mechanics, which help to modernize statutory service by means of securing its stability and creatively employing motivation of officers make it more flexible.

Variations of the Fig. 2 help summarizing the problems analysed in the book taking into consideration its context. The author stresses that administration reform is a complex

process, which covers several branches of sciences, results of interaction between elements of administration and management. Therefore, new chapters of the book focus attention on different subjects, discuss with the reader the issues related to creation of different concepts. They are bound by drafting of intellectual administration model. We present the summary of the main chapters of the book by trying to focus on presumptions of creation of concepts of stability; flexibility and motivation (Fig. 1 A, B, C).

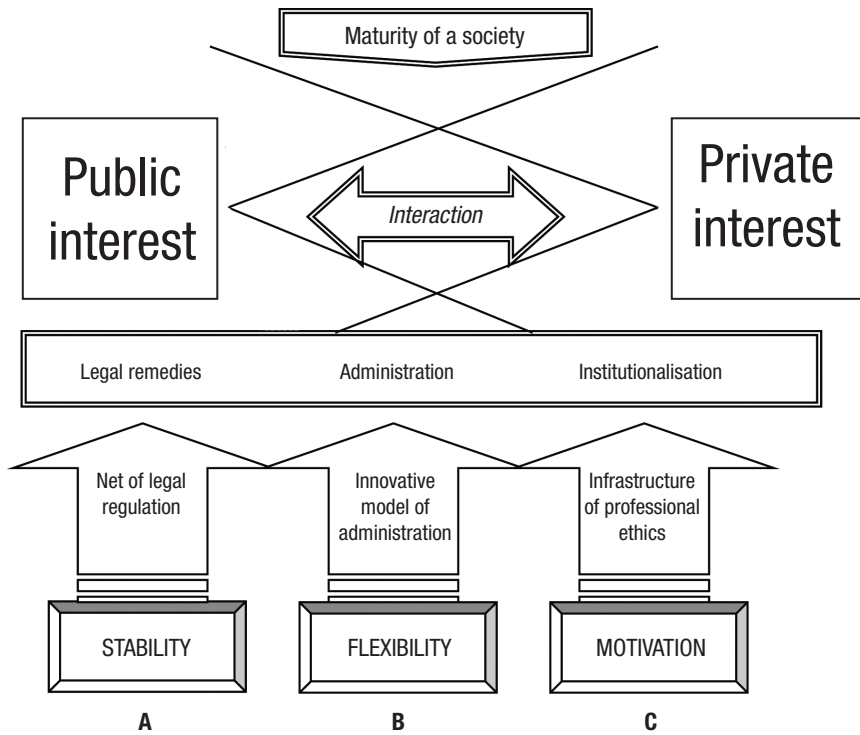


Fig. 1. New paradigm of state services (institutions)

2. (A) Tendencies of democratic legitimacy of legal regulation of state statutory services

The modern concept of the state is closely related to democracy while the content of this notion is inconstant and influenced by the development of the humanism theory and practice; it reveals human needs, which emerge from values. Legal state is forming itself as a legal organizational mechanism aimed at implementing values and developing variety of human needs, starting with the lowest level – ensured guarantees for maintaining the existence like a physical life, health, etc. – up to the highest culture and intellectual needs (Laurinavičius 2002). The modern science declares that perfection of positive law means a shift into the administration state. Peculiarity of a new state vision is the conformity between the law and administration, transformation of administration

of public institutions by employing modern concepts of new public administration. From this point of view, the goal of scientific analysis is to reveal the change of law by introducing preconditions for dynamics of rights of human and social formatives in increasing their social responsibility.

Changes of social role of law could be established by analysis of functions of the law to regulate certain societal relations. The status of state statutory services is a legal one and a peculiarity of their administration modernisation is related to its implementation with certain reservation, which requires preserving stability of these services, while their function is to ensure the stability of the state. Legal legitimacy is the most trustworthy and time-tested guarantee for stability, therefore, the necessary precondition for administration state creation is the legal state based on firm democratic legitimacy.

Legal means are employed in order to establish tasks to be implemented by institutions and status of officers and institutions. Besides, the study presents certain functional priorities with reference to development conditions of state and society. When we analyze administration of statutory services (administrative activity) from the point of view of the legal state, it is pivotal to analyze the process by employing a shifting notion of the law and state (institutions that comprise it). It is quite a difficult task as the notion of the law and the definition of the state in general are quite comparative and determined by historical experience, way of life, national character and other conditions. Therefore, there is no universally approved definition of the subject of the law while this is important argument to analyze legal functions, their compatibility with concepts of the new public administration.

Diversity of opinions on issues of democratic legitimacy emerges due to numerous reasons, and the first of them is complexity of its legal content. For example, E. Kūris when defining the content of the subject of law, marks out several important aspects though not compatible to each other: the law is concurrent with interests of people and their group as state statutory services whose behaviour is regulated by it (Kūris 2002). Violation of law is one of aspects of societal life knowledge; the law is always related to certain values; the law is only social but also psychological and cultural phenomenon, which makes it universal. Therefore, there are many reasons, which encourage discussion on the issue of the subject of law. There are even more reasons to analyze new tendencies of its administration modernization. It is quite problematic to find common rate when attempting to provide to the community of lawyers some unusual, unadapted in terms of consciousness study on legal issues like the one we are analyzing.

One of problematic issues is that the goals or philosophy of state, society and separate social layers might differ and turn into more or less intense social tension. This scientific study reveals that state, society and different social groups have different values and their hierarchy. On the other hand, it would be erroneous to think that some unified society with homogenous way of reasoning could appear and the individual person's consciousness would be come extinct. The point is that philosophy defines the idea in itself and its principal attitudes, or to put it in I. Kant's words, socially significant

“maxims” without going into details. It allows achieving the balance between statics and dynamics of the categories.

The counter fort of the modern philosophy or its main and incomparable value – the man, his relation with other man, relations among humans or interaction in the context of globalization and integration process of growing social responsibility of organizations. A responsible person with firm moral attitudes contributes to creating culture and progress of the humanity, with responsibility takes care of the world as the subject of his activity. The book presents a presumption that tendencies of democratic legitimacy are determined by the idea that both a person and a society need less and less imperatives such as strong legal regulation from outside.

Another legal aspect, which is analyzed in the monograph, is related to changes in applying a conception of the law. Some time ago there was an opinion that legal order is an exceptional prerogative of the law and lawyers and an exquisite task of law enforcement institutions. Nowadays, there is a different understanding that creation of legal state and organized society is a complex problem of science and practice, which requires a complex solution by employing other branches of science. New scientific theories have been created, which have broadened the concept of law as social value. Therefore, while analyzing issues related to administration we encounter various specific theories, such as philosophy of law, sociology of law, theory of administration of law enforcement institutions, psychology of law, psychology of courts, deontology, professional ethics (for example, state statutory services), educology of law, etc. It means that management and administration of organizations requires high intellectual capacities and stimulates maturity of organizational culture of human coexistence.

Thus, law in the 21st century is not the only autonomous regulator of modern coexistence – an exclusive whole of sanctioned rules. Regulation of statutory services and the staff – officers – is not an exclusion: the scientific study revealed that in their behaviour, communication with persons (clients) they employ other social norms – political, religious, ethical, corporative, socio-psychological (customs, traditions, believes, insights), etc. Relations, which fall under legal regulation are influenced by the diversity of the law and other social norms. And vice versa, development of democratic legitimacy is determined by imperatives of different spheres of society life.

3. (B) Instruments of state statutory services to modernize administration

Nowadays, while in western countries a new public administration is being elaborated, the Lithuanian statutory service still pursues a strong career model the so called *neo-Weberian concept*. It is required that the state and its institutions are socially responsible, take care of technological, demographic, ecological and other phenomena and processes and change within themselves. Internal responsibility of state institutions consists of bureaucratic and professional responsibility (Židonis 2007).

State statutory services as the state guarantee for security and stability in a new administration also preserve a high authorization and power level and assume even more autonomy. A concept of new administration is based on the *corporate power doctrine*. The idea is to include all interested parties (social groups) into the matter of decision taking and arranging of public affairs. In their turn, all interested persons acquire a stimulus to organize and actively participate in taking care of public societal affairs. A presumption for implementation of the doctrine is new public administration. It encourages introducing into state service the principles of enterprise, contraction, privatization, deregulation, decentralization. A new public administration is defined by being more oriented to needs of society and person. It makes the subject of the research even more complex.

The subject of the monograph is focused on the analysis of interaction of state and business and is based on the presumption that *enterprise is a state of society; therefore, it is to be treated as a national problem*. If state institutions do not assume that an enterprise creates basics for economic wellbeing might become a serious obstacle for social development. For example, there are from 50 to 100 controlling institutions under the Ministry of Economy and the Ministry of Internal Affairs. 25 thousand officers are employed in state statutory services, which comprise approximately 10 percent of all state civil servants. Activity reforms attempt to introduce new methods, which allow combining control and support. In an administration state, the control is treated as a security of the public interest adjusted to support provided for people and the encouragement of enterprise. The book devotes much attention to the analysis of an example of stimulation of international trade. From this point of view customs and enterprise are inseparable elements of successful economic development. According to the data provided by the United Nations Economic Commission, coordinating role of the world trade is distributed as follows:

- customs – 58%;
- ports and harbours organization – 17%;
- other state institutions – 17%;
- private organizations – 8%.

From the traditional point of view, customs is a control institution, which requires much time from business and often becomes an obstacle to international trade. The data scale of economical transactions proves that due to complex customs procedures business might face much damage. When international trade goes in low tariffs, all customs procedures might become hidden restrictions (quantitative, qualitative) or obvious obstacles for international trade. It means that customs should focus on the needs of business communities by making customs procedures less complicated, by speeding information flows and by introducing new communication technologies. There are discussions in literature on the following issues concerning simplification of customs procedures:

- simplified import of goods by organizing all required formalities by “one- window principle”;

- an important innovation is, when information on goods is sent to customs before the goods arrive so that customs could count import tax and classify arriving goods;
- random goods checking, electronic declaration of goods.

The idea for customs modernization emerged in developed western countries. The initiative was supported by the World Customs Organization (WCO) and the World Trade Organization (WTO), which created customs support for business strategy, the so called Framework of Standards to Secure and Facilitate Global Trade. The WCO framework to secure and facilitate global trade sets forth the principles and the standards and presents them for adoption as a minimum threshold of what must be done by the WCO members. The Framework aims to facilitate and secure trading, enable integrated supply chain management, strengthen cooperation among customs administrations. The Kyoto International Convention on Simplification and Harmonization of Customs Procedures – is the main international agreement on the issue¹.

Therefore, simplification and coordination of customs procedures changes the role of the customs. It becomes a significant part of international trading infrastructure, which participates in different processes of international trade. The facilitation of the international trade is a defining feature of new trading, which covers methods of the modern administration:

- use of information technologies for modernization of customs procedures, electronic tax payment;
- customs control based on principles of auditing;
- analysis-based risk management;
- cooperation among customs, business and other institutions.

Development of the international trade requires coordination of the national EU customs activities and accurately organized services. In order to coordinate customs activities, in 1998, the first set of the so called *Blueprints* (13 strategic tasks) was produced. These *Blueprints* is a practical key instrument based on the best EU practice, which helps customs administrations to evaluate and improve functional effectiveness and institutional capacities. The importance of the Guidelines crossed the EU borders. Nowadays customs services throughout the world encounter the similar problems and challenges. Administration of any customs services, which implements reforms, faces challenge to ensure necessary capacities of administrative activities. Apart from the tax collecting function, customs is obliged to demonstrate a capacity to effectively manage and control external economical borders, to ensure interests of society, economic trade performing entities, ensure policy of trading facilitation. Directorate General of Taxation and Customs Union of the European Commission took the initiative to review and update strategic directives. The updated set of direc-

¹ Council Decision No. 2003/231/EC of March 17, 2003 concerning the accession of the European Community to the Protocol of Amendment to the International Kyoto Convention. The Seimas of the Republic of Lithuania ratified accession to the Protocol of Amendment to the International Kyoto Convention on the same conditions as the European Community.

tives covers 22 major fields based on the best practice of EU member states customs administrations. They have been drafted by experts from the Directorate General of Taxation and Customs Union of the European Commission and EU member states customs administrations experts.

Briefly reviewed presumptions of administration modernization reveal tendencies of democratic legitimacy, which enhance improvement of administrative capacities while strategic directives are a reliable methodological model for problem analysis. The study arrives to the conclusion that the new public administration requires a different organizational culture; i.e. obligations are to be performed by being open to external environment. It is based on competence and professional capacities of public servants, their abilities to take corporate decisions even in unusual situations. There also emerges another conclusion in the study that administrative changes based on new public administration narrow boundaries of administrative law. Management based on orders and other normative methods are substituted by methods, which allow more possibilities for management activities. A development of administrative discretion is related to new needs of state regulation and effectiveness of public administration. Creators of discretionary law without denial of the importance of legal norms in state administration have introduced an idea that there should be another socially (social ethics) and morally based way of regulation of social relations, i.e. discretionary management.

Scientific analysis of the practices reveals that discretionary law is a complex phenomenon with many internal contradictions. There is an opinion that science does not pay enough attention to solving these problems and due to this reason continental European administrative law is in “the stagnation period”.

The concept of the discretionary law is interrelated with striving for good administration. The main criterion, on which executive state administration mechanism of the legislative (law-making) law is based, is the aim to creatively implement the principle of good administration. This aim is inseparable from the development of public servants' intellectual activity. Discretion the intellectual activity of public servants is justified by philosophy of mind. It is a way to create favourable conditions for modernization of administration, create concepts for solving unusual situations, to encourage a flexibility of public servants administrative activity. A principle of good administration might be treated as a requirement for public servants to understand administration as the intellectual activity. This conclusion is based on the special literature, decisions of the European Court of Justice. For example, in the case *Tradax versus Commission*² the Prosecutor General noted that he does not see any existing universally approved legal principle that what is required on the basis of the principle of good administration will become legally ensured norm (Usher 2001). There is an opinion in the literature that the principle of good administration is implemented by the analysis of practical experience and by creation of innovative concepts of management administration.

² Case 64/82 *Tradax versus Commission* [1984] ECR 1359, p. 1385-6.

An initial survey on issues of understanding of good administration has been conducted. There have been problems identified, which are to be addressed by scientists and practitioners in order to modernize administration of the Lithuanian state statutory services.

4. (C) Presumptions of management of ethical administrative activity of state statutory services

Ethical administration of institutions is one of the most important its defining features, and moral official activities – a necessary professional feature of public servants, a part of their qualification. Professional ethics (state service) is one of the most efficient instruments of management (public management). Literature based on scientific research suggests and encourages creation of the purposeful system of ethical institutes (an optimal and accomplished ethical infrastructure) when drafting strategies for institutional activities, their perspective plans. The stress is also put on the concept that the main tendency of the development of ethics is a shift from personal (individual) to social-professional ethics. For example, bearing in mind the development of discretionary powers of public servants a heavier burden responsibility for qualified, ethical and socially responsible activity is supposed to be carried by the organization itself, its executives. When defining social priorities, modelling ethical public administration there is a requirement to take into consideration all conditions, which enhance the maturity of civil society. Advancing to contact is being pursued by creating an efficient infrastructure of professional ethics, which allows presumptions for implementation of the ethical code of a certain profession (service) and making it more effective.

A need for professional ethics is supposed by the circumstance that a tune between society, an individual and a service is very fragile due to a very delicate trust among them. A problem of trust in authorities is scientifically proved to be everlasting. The analysis of practical experience showed that in this context a particular role is attributed to the infrastructure of modern ethics, which allows for something that seems a distant dream – for institution to arrange matters itself by employing own capacities and volitional efforts. The prestige of an organization is an indication of its reliability. Trust among individuals and credibility creates a system of guarantees of “social contract” which is trustful enough, starts functioning and influences public relations. This drives to a conclusion that this phenomenon, the prestige, trust in institutions basically can be managed by employing instrumental (professional) ethics. Thus, the book suggests the presumption that codes of ethics could serve as a creative means for good administration of institutions, their good credit and confidence.

Theoretical presumptions of emerging of the instrumental ethics are reviewed in order to provide for a sequential study of the issue. The statutory states started a reform of ethics by introducing deontology. Deontology is a system of norms and principles, which come from professional obligations, which regulate official behaviour of public servants of public administrative institutions.

Besides, it is a system of science and teaching, which meets the needs for scientific knowledge on obligations of police, customs, state border guard and civil security, officer's professional behaviour. This theory is reputed as the fundamental one in comprehension of ethical public administration, and practice ethics is treated as an instrument of a modern public management. The basic concepts of instrumental ethics are the institutionalization of ethics and the infrastructure of ethics. Institutionalization of ethics is creation of the infrastructure (institutes and institutions) of ethics and the code of service behaviour is its initiation.

A modelling of the infrastructure of ethics, processes of institutionalization are oriented towards broadening the institutional independency, their internal order and responsibility. The book points out that the professional ethics cannot be treated as returning back to the Soviet self impeached so-called "collective responsibility", on the contrary, the aim is to oust negatively tendentious, warp public relations in state and municipal institutions. Nowadays, a public servant in performing his/her obligations is sufficiently autonomous and his/her activity is determined by his/her volitional efforts and is based on individual responsibility of serving the society. An officer by taking on his responsibilities in the service in his/her own will, as A. Vaišvila felicitously argues, accepts additional obligations by which he/she can legalize and broaden own rights to protect public interests. Thus, the public servant has extensive delegations of public administration. He not only acquires additional rights but also is attributed of specific obligations, which presuppose his peculiar understanding of public spirit. A citizen-officer has to assume a positive role in the name of enhancing wellbeing of the society; he has to attain the common welfare by upholding a system of basic political, civil values:

- initiative participation – capacity;
- political equality;
- justice.

Thus, an individual by becoming an officer assumes a role of a citizen-administrator and becomes an interested citizen who serves the society. Ethic department becomes the background of ethic civil spirit of public administrator (police, customs or tax institution officer). His superlative responsibility is to provide the society with services and goods in a way that the common welfare and communal life would improve. Life ameliorating from the moral point of view is one of important preconditions to form societal characteristics (e.g. trust in officers), political virtues (for. ex. interest in cooperation, contribute personal time for creation of a secure life) – it all enhances a societal civil maturity.

5. Improvement of new state service (in place of conclusions)

How to influence state services and their employees, to aspire to their ethic, civil stand? The research carried out by the author allows certain generalisations.

One of the most effective ways to prevent certain problems in service is an ethical decision taking. Ethical decision depends on adequacy of the available information,

comprehension of consequence result sequence, ability to evaluate from the point of view of morals in the ambit of the democratic legitimacy. It is highly important that before taking a decision an officer understands logic coherence between the goal and decision, i.e. the policy and the process. The content of the decision reflects the policy while methods to take the decision – the process. The content requires keeping to the legally defined goal, competently and coherently pursuing administrative policy, making sure that the decision, which is to be taken is useful for citizens, not for the organization or a separate individual, making efforts to take righteous decisions. The carried out research allow to maintain that it is quite complicated for officers to make difference between the principle of the policy and the rules which regulate implementation of the policy, and in case of a conflict they choose rules instead of the principle. Having noticed a contradiction between the principle and the rules (inappropriate intended means) an officer is incapable to act freely by ignoring or otherwise interpreting illogical rules

Taking ethic decisions in statutory state service is complicated intellectual process. The picture presents new public management concept from the point of view of ethical evaluation (Fig. 2). In order to focus readers’ attention to the essential matters analysed in the monograph, the picture shows counter fort points which are significant to modernization of administration of public institutions, creating strategies for state services, introducing management of public relations into administration, instrumental ethics.

Mission. The mission of state service is materialized by defining it legally and marking the basic functions – priority activity fields. When analysing administration of statutory state services in terms of development of legal democratic state it is important to analyse the process by changing concept in society of law and state (the institutions which constitute it). Organizational institutional changes are evident at adherence to the mission of the service. It means that all public servants comprehend what they are supposed and expected to do for implementation of the mission of the institution (customs, police, etc.). The research data allow maintaining that understanding of the mission and functions of the service determines the responsibility of the authorities in the organization, i.e. comprehension of the role and capability to explain it to the subordinates. In other words, implementation of the mission depends a lot on delegation of functions to appropriate individuals.

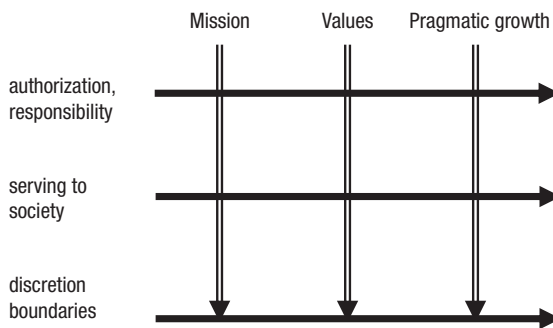


Fig. 2. Instruments of implementation and control of new public management

Values. Organizational changes in Lithuanian statutory state services are implemented not by restructuring though by creating, coordinating system of social norms according to standards of the Western democracies, by developing competence of officers and forming values of serving the society, i.e. transforming values and evaluation into higher level of moral requirements.

Values are supposed to be clear, effective and exceptional. Loyalty of the authorities of the service to these values is a capability to understand a specific status (Laurinavičius 2008), of the institution and subordinates to form moral requirements for serving by enhancing positive tendencies of service activities. Peculiarity of modern times is related to the idea that the moral concept of public administration provides for a changed content of the concept “of serving the society”. It means that the strategy is to change, comply with the situation (e.g. provided services, serving- benevolence, taken decisions optimal, acceptable to the society, etc.). However, despite the changed relations between state and business, distinctive values of the state have to be maintained.

Pragmatic augmentation. A process of searching for development possibilities is continuous. The main tendency is to make a multi-stage decision making process easier, more fluent organizational structure by ousting out unnecessary bureaucratic procedures. The duty of the authorities of service is to appropriately direct organizational processes towards the mission accomplishment. The very truth is that we achieve as much as we hope to achieve. And the less we try to look and act like others, the more we achieve, according to C. Turner. It is not that we wish to stand out, it only means the courage to defend own believes. This statement is fully proved by the data of our social research.

While evaluating augmentation in terms of management, the main task is to establish who the authority of the organization or of its smaller subdivision is: a controller, an administrator or a leader. All the three have different goals. The controller aspires to suppress, the administrator – to restrict, while the leader enhances team work for accomplishing the mission.

According to the data of our research, problems emerge due to the remaining traditional methodology for electing the authority, which blocks larger changes. In practice, the position of the authority in some institution is the means of acknowledgement or promotion but not the means to precondition further development. A person good at implementing official duties not necessarily will become a good leader. In a modern institution the authority treats changes as natural process of development and enhances it the way it complies with the mission of the service-anxiety and interests of members and society.

It is worth noting that the mission, values, tendencies of institutional development are rendered in a descriptive manner. In parallel, the author attempts to create standardized requirements, concepts of administration as management counter fort. The role of institution, tendencies of its development is evaluated in the overall context of social processes.

Authorization, responsibility, service requirements, discretion are norms and values in their nature. A descriptive aspect assists drafting comments, revealing the existent or newly emerging philosophy of social values.

Delegation of authorization and responsibility. All employees of the service are responsible for efficiency and quality of the activities. Democratic legitimacy is an objective background. A new quality is pursued by authorization of all officers to self-dependently perform tasks and personally accept the responsibility for activity results. Our research supported the business experts' statement that organization having approved the document, which standardizes service requirements, does not lose its flexibility and does not become particularly strict if certain requirements are obeyed.

- Instructions define the status by establishing primary, secondary and subsidiary goals. It is not difficult to an officer to act in team and work collaboratively, and be a member even in unusual situations.
- Orders from higher authority established by the law are obligatory for a subordinate to execute, however, orders from above do not free of personal responsibility for consequences.
- Moral imperatives are perceived in a broad way that both kinds of responsibility could be- not only negative³, but the positive⁴ as well.
- Acts of officers are evaluated in the context of immanently implemented mission and by deontological criteria of activity evaluation.

Serving the society. The peculiarity of the issue is that technical tools are not the most important matter in serving. The focus should be put on the idea that the activity is dedicated to transmitting values (legal, deontological, moral, etc.) to reality and aspire to their efficiency. An objective background is the infrastructure of professional ethics, i.e. the code of ethics and the completed (perfect) system of institutions and institutes that maintain it. In the evaluation in the light of new public administration more attention should be addressed to human relations, feeling supposed by subculture inside the service and its providing for the community which is maintained by it. The data of the research singled out the essential ethical values:

- high standards of service performance;
- accountability;
- quality of communication.

One of the most important spheres of the work is the work with citizens (clients), consideration of their complaints. The success of police or tax institution activities depends on cooperation with society. As W. Olins has put it, if there is an opinion in a country that those who pay taxes are fools, the majority of individuals would elude paying taxes until the principle concept of tax institutions is changed. The major factor for creating

³ Negative responsibility emerges in case a person commits a crime or some violation. Such responsibility is of retrospective nature and looks back to the past.

⁴ Positive responsibility is not related to direct guilt. It is like an alert to a person not to commit crimes, violations or even mistakes. It is of perspective nature and looks to the future, and is a form of moral responsibility.

moral atmosphere and enhancing the prestige of the organization is a careful consideration of serving deficiencies, speedy corrections and learning from mistakes in order to avoid their repetitions. The analysis of scientific publications and data of social researches allow making a conclusion that the analysis of complaints made by clients or the division of the work with clients has to be the essential part of the activities of (serving) organization.

Scope of discretion – loyalty to state service. Public servants as a specific social group are singled out by the role of state services and especially statutory state services in the process of their administrative activities. The objective background is an administrative discretion. The head of the service has particular authorities to motivate subordinates (for. ex. through management of career processes) and require high morality, maintain appropriate psychological atmosphere in a collective, create favourable conditions for every servant's personal expression. Defining boundaries of discretion is a difficult task. For example, theories provided in the scientific literature encourage focussing attention on the inner motivation of state services. Understanding of service goal and its significance is unquestionable basis for motivation which is noted by authors of scientific works and proved by our research data.

This phenomenon has another side as well – the disposition of a public official to serve. Introducing of a new public management requires not only hands, minds, and time but also creativity and untraditional imagination. By employing C. Turner's (Turner 2002) model of evaluation we have carried out social research on the basis of which we provide additional preconditions for discretion to emerge:

- *insight* to foresee tendencies of the development and future needs persons (clients);
- *intuition* when taking decisions how to act in the context of such tendencies and new needs;
- *initiative* to effectively maintain emerging development of possibilities;
- *innovation* in creating benefit – feeling of community and civil spirit and making use of new possibilities;
- *honesty*, which ensures that this possibility is meaningful and worth to be elaborated;
- *individuality* – willingly to accept personal responsibility;
- *close relations* among team members where tasks and initiatives are accomplished.

For these characteristics to emerge, be implemented and developed there is a necessary precondition – administrative discretion, i.e. legally regulated discretionary authorisation of officers.

The other problem emerges from the idea that the significance of business and state service is treated differently. Subsequently, development tendencies of certain unities are different, therefore, the social administration and legal regulation of these unities has to be different. In business, own interests are over evaluated, while in state service – the interests of society. It is very difficult problem of modern times bearing in mind certain processes of state functions privatization, administration based on concerted relations. Many

theoreticians and practitioners introduce radical ideas and suggest for searching for answers in social theory, postmodernism, humanistic philosophy and even in phenomenology.

To sum up, a presumption can be suggested that real changes of state services could be expected only if organizations and officers realize changes of the philosophy of their own service activities. In other words, having created as comprehensive concept of modern administration as possible, which would provide for more room for civil spirit and for officers for more dedication to serve and think of common welfare.

As persuasively R. Bellah in his monograph “Habits of the Heart” put it, dedication for state service is not the essential issue; however, it might become a power unifying citizens and professionals when deciding significant problems of the state (Bellah 1985). Transformation of administrative state into management state has to be focused on the feeling of civil spirit to be transmitted into activity of the authority by creating changes which influence infrastructure of professional (public administration) ethics. Progressive, intellectual activity of state services is not mere technological capabilities. A moral contribution made by public officials to enhance the maturity of civil society is of high importance.

References

- Bellah, R. 1985. *Habits of the Heart*. Berkeley. University of California Press. 221 p.
- Case 64/82 *Tradax versus Commission*. 1984. ECR 1359, 1385–1386.
- Council Decision No. 2003/231/EC of March 17, 2003 concerning the accession of the European Community to the Protocol of Amendment to the International Kyoto Convention. 2003. The Seimas of the Republic of Lithuania ratified accession to the Community to the Protocol of Amendment to the International Kyoto Convention on the same conditions as the European Community.
- Domarkas, V. 2007. Viešasis administravimas organizacijų teorijos kontekste, in *Viešasis administravimas* [Public Administration]. (Red. Raipa, A.). Kaunas: Technologija, 86–126.
- Grundey, D.; Toluba, B.; Pifinkus, D.; Verbauskiene, L. 2008. The role of institutional policy in developing innovative entrepreneurship in Lithuania, *Transformations in Business & Economics* 7(2): 86–101.
- Jarvis, M.; Tint, P. 2009. The Formation of a Good Safety Culture at Enterprise, *Journal of Business Economics and Management* 10(2): 169–180. doi:10.3846/1611-1699.2009.10.169-180
- Juscius, V.; Snieska, V. 2008. Influence of corporate social responsibility on competitive abilities of corporations, *Inžinerine Ekonomika – Engineering Economics* (3): 34–44.
- Kopitov, R.; Faingloz, L. 2008. Ways of transforming aims into results at successful companies, *Technological and Economic Development of Economy* 14(3): 312–327. doi:10.3846/1392-8619.2008.14.312-327
- Kudrycka, B. 2004. Problems and prospects of preventing conflicts of interest in local governments in the CEE countries, in *Combating Conflict of Interest in Local Governments in the CEE Countries* (Ed. Kudrycka, B.). Budapest. Open Society Institute, 1–48.
- Kūris, E. 2002. Grynoji teisės teorija, teisės sistema ir vertybės: normatyvizmo paradigmos iššūkis in Kelsen. H. *Pure Theory of Law* (translation in Lithuanian). Vilnius: Eugrimas, 11–43.

- Laurinavičius, A. 2008. Statutinių valstybės tarnautojų statuso įgijimo kriterijai ir jo išskirtinumo pagrindimas, in *Valstybės tarnybos teisinis reguliavimas ir perspektyvos Lietuvos Respublikoje* [The civil service legal regulation and prospects in the Republic of Lithuania]. Vilnius: Lietuvos viešojo administravimo institutas, 92–102.
- Laurinavičius, A. 2002. *Žmogaus teisės ir policijos veikla* [Human rights and police activity]. Vilnius: LTU. 220 p.
- Niedvaras, J. 2008. On the Phenomenon of Globalisation, *Transformations in Business & Economics* 7(3): 18–18.
- Petkevičienė, B.; Urmonas, A. 2008. Valstybės tarnautojų diskrecijos teisė ir jos įgyvendinimo kontrolės kriterijai, in *Valstybės tarnybos teisinis reguliavimas ir perspektyvos Lietuvos Respublikoje* [The civil service legal regulation and prospects in the Republic of Lithuania]. Vilnius: Lietuvos viešojo administravimo institutas, 20–29.
- Palidauskaitė, J. 2007. Viešojo administravimo etika ir valstybės tarnyba, in *Valstybės tarnyba Lietuvoje: praeitis ir dabartis* [The civil service in Lithuania: Past and Present]. Vilnius: Valstybės tarnybos departamentas prie VRM, 224–279.
- Petrylaite, D. 2008. New Challenges for Collective Labour Relations in Lithuania: Labour Law Vs. Business Relationship, *Transformations in Business & Economics* 7(3): 254–263.
- Petrylaite, D. 2008. Socialinis dialogas valstybės tarnyboje, in *Valstybės tarnybos teisinis reguliavimas ir perspektyvos Lietuvos Respublikoje* [The civil service legal regulation and prospects in the Republic of Lithuania]. Vilnius: Lietuvos viešojo administravimo institutas, 72–81.
- Thom, N.; Ritz, A. 2000. *Public Management. Innovative Konzepte zur Führung im öffentlichen Sektor*. Wiesbaden, Gabler.
- Tijunaitienė, R.; Neverauskas, B.; Balciunas, S. 2009. Motivation Expression of Citizen Participation in Organizations of Citizen Society, *Inžinerine Ekonomika – Engineering Economics* (1): 65–74.
- Turner, C. 2002. *Lead to Succeed: Creating Entrepreneurial Organizations*. New York, London: Texere.
- Urbanskiene, R.; Zostautiene, D.; Chreptaviciene, V. 2008. The model of creation of customer relationship management (CRM) system, *Inžinerine Ekonomika – Engineering Economics* (3): 51–59.
- Usher, J. A. 2001. *Bendrieji Europos Bendrijos teisės principai*. Vilnius: Naujoji Rosma.
- Židonis, Ž. 2007. Pokyčiai Lietuvos valstybės tarnyboje: demokratinis valdymas versus vadybinė valstybė, in *Valstybės tarnyba Lietuvoje: praeitis ir dabartis* [The civil service in Lithuania: Past and Present]. Vilnius: Valstybės tarnybos departamentas prie VRM, 342–356.
- Weber, M. 1947. *Theory of Social and Economic Organization*. New York: Oxford University Press.
- Wilson, W. 1978. The study of administration, in Sharfritz, J.; Hyde, A. (Eds.). *Classics of public administration*. Oak Park, IL: Moore, 3–17. [Original: Wilson, W. 1887. The study of administration, *Political Science Quarterly* 2].

VALSTYBĖS TARNYBOS ĮSTATYMAS IR INOVATYVI VYRIAUSYBĖS INSTITUCIJŲ ADMINISTRAVIMO PARADIGMA

A. Laurinavičius

Santrauka

Straipsnis parengtas pagal autoriaus monografijoje pateiktus tyrimo rezultatus. Dėl ekonominės globalizacijos ir pasikeitusių ūkio sąlygų atsirado nauja mokslo ir studijų sritis – viešieji ir privatūs interesai, jų tarpusavio sąveika ir konkurencija. Straipsnis atspindi naują socialinį reiškinį – viešojo administravimo institucijų inovacinę plėtrą, reformą, atsižvelgiant į XXI a. iššūkius. Autorius atskleidžia rinkos mechanizmų demokratinį įteisinimą ir sąveikos klausimus, sudarančius prielaidas prasmingai įgyvendinti naująjį viešąjį administravimą, plėtoti viešąjį valdymą. Kadangi tyrimo objektas yra labai platus, straipsnyje pateikiamas siauresnio tyrimo tikslas – nustatyti valdymo (socialinį) viešąjį interesą, įgyvendinimo priemones ir dabartines tendencijas.

Reikšminiai žodžiai: valstybės tarnybos įstatymas, valstybės statutinės paslaugos, socialiai atsakinga veikla, viešieji ir privatūs interesai.

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