

# *Reform of Public Administration in Austria*

## *Activities and Perspectives*

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Reform is the constituting principle of public administration. It is only by this institutional mobility that public administration is able to meet the changing requirements of society. The reform of public administration must comply with political rationality and efficiency. The importance and significance of these goals may differ and depend on the relevant political issues. Sometimes it may be a higher level of democracy and participation, sometimes the improvement of social performances, sometimes reduction of state responsibility by means of deregulation and privatisation. These goals contradict each other as do public reforms themselves.

The international trend to reduce state responsibilities and to make public administration more efficient has been met by measures that have also been taken in Austria. In particular, the (tentative) implementation of the action programme provided by the New Public Management is a signal for the will and ability of all public actors to moder-

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nize public administration. It is evident that the reform concepts could not be realized one to one. The actors were often forced to compromise and to meet the opponents halfway. It is also understandable that the recent public reform cannot be seen as a general concept characterized by logical consistency but as a project consisting of several parts with different levels of realization. Therefore, the ongoing reforms in Austria do not only have to be seen as a success but more than this as a promise for the future.

*Key words:* public administration reform – Austria, public administrative science, e-government, new public management, welfare state, lean state

## 1. Introduction

### *a) Understanding of the reform*

When speaking about the reform of public administration the term »reform« could be mistaken insofar as one single reform, which covers all items and issues, does not exist. There are several kinds of reform measures that may be described under the most different points of view.<sup>1</sup> According to this, the reform of public administration in Austria cannot be

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<sup>1</sup> In abstract form but also with reference to the ongoing reforms in Austria the following distinctive aspects are to be specified:

- The extent of the reform: total reform, partial reform, punctual reform;
- The subject of the reform: federal reform, reform of the provinces (Länder), reform of cities and municipalities;
- The object of the reform: This means the institutions which are to be reformed, e. g., the reform of the counties, chambers, court system, public enterprises, etc;
- Substantial reforms: Material reforms may take place in all parts and fields of public administration, like health, education, universities, reform of fundamental rights, constitution, penal rights, etc;
- Legitimacy of the reform: »bottom up« reform by citizens' participation, »top down« reform only by public administration itself;
- Duration of the reform: short, medium, and long-term reforms;
- Persons concerned by reform activities: service regulation regarding teachers, judges, civil servants, policemen, etc;
- Structural changes: centralistic-federalist reforms;
- Ideological effects of reforms: liberal-social reforms;

described as a whole, but only by illustrating several ongoing »areas« of reforms. Of course, this presentation opens a wide space of discretion and in a way may reflect the author's opinion about the importance of changing measures regarding public administration. However, the following issues and topics represent the mainstream of reforms in Austria.

### *b) The current situation of the Science of Public Administration*

Any public administration reform is usually the playground of civil servants who have their roots in the administrative practice and know the needs and necessities of their own administrative surrounding. Nevertheless, it might be useful to say something about the status quo of administrative science in Austria, because the scientific elaborated understanding of the »mechanics« of public administration could also improve the public reform.<sup>2</sup>

Despite the long tradition of Administrative Science in Austria – Lorenz von Stein was professor from 1855–1858 at the University of Vienna – the situation of Administrative Science in the recent past was rather poor. At the beginning of the 20<sup>th</sup> century, the scientific approach to public administration was particularly dominated by methodical instruments of jurisprudence and – under the influence of the »Reine Rechtslehre« by Hans Kelsen – political or social considerations regarding public administration were rejected. According to the dominant position of the »Formalpositivismus«, considerations of the expediency of public administration were displaced and did not play any role in the academic discussion.

The consequences of this exclusion of reality of public administration from the academic dialogue are fatal. Public reforms – except legal reforms – in Austria used to be realised without any support of Administrative Science. This is one – but not the only – reason why reforms in Austria seem to be more of a patchwork kind than of systematic and logical homogeneity.

Another consequence of the »self restraint« of Administrative Science is that business and management theories have overtaken its role. Generally, organisational changes in public administration are more often supported by management consultants than by public administration experts. This happens in spite of the fact that there are fundamental differences, parti-

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– International relevance: national, European, international (e.g., in the framework of GATT and UNO) reforms.

<sup>2</sup> About the value of Administrative Science as a guideline for reforms (Verwaltungs-politik) see *Wimmer*, *Verwaltungslehre*, 43.

cularly regarding the legal frameworks of public and private organisations. The best management approach, which is adequate in the world of business, will fail in public administration if it violates the legal framework.

The deficiencies of the Austrian Science of Public Administration also weaken its competitive strength at the international level. At present, a big rise in the field of Public Administrative Science is taking place in Central and Eastern European countries, which is visible in many forms, such as the foundation of the national Academies for Public Administration as well as of a variety of publications in this field. This is a logical consequence of the fact that the harmonisation of administrative standards in Europe can only be achieved by common reforms. Austrian experts are also involved in these recent developments by giving inputs to the adoption of the legal framework of public administration, in particular the administrative procedure law according to modern standards.<sup>3</sup> In view of the Central European family of administrations, which existed in the past, the co-operation between scientific reformers from Austria and the accession countries should be »natural«. This co-operation could be to the benefit of both sides.

Bearing in mind that, on the one hand, public administration reform is a challenge for Administrative Science, while on the other hand the quality of the reform depends on the scientific support, the fact that a renaissance of Administrative Science has recently taken place in Austria is undoubtedly a positive signal. In particular, the representatives of administrative law are increasingly dedicating themselves to research projects with a public administration reform background.<sup>4</sup> There is reason to hope that in the near future Administrative Science will generate its own, *specific theory of the decision-making processes* in the sphere of public administration, which would be more adequate to its object and could replace the management theories in this field to a certain extent.

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<sup>3</sup> See Wimmer, *Modernisierung der Verwaltung*, in Heckmann (Ed.), *Gedenkschrift*, in Druck.

<sup>4</sup> Among the increasing number of publications in journals and books, the following should especially be mentioned: *Bußjäger*, *Die Organisationshoheit und Modernisierung der Landesverwaltungen* (1999); *Holzinger/Oberndorfer/Raschauer* (Eds.), *Österreichische Verwaltungslehre* (2006); *Neisser/Hammerschmid* (Eds.), *Die innovative Verwaltung – Perspektiven des New Public Management in Österreich* (1998); *Oberndorfer* (Ed.), *Bürger und Verwaltung* (1981); *Wenger/Brünner/Oberndorfer* (Eds.), *Grundriß der Verwaltungslehre* (1983); *Wimmer*, *Das Einmaleins der Verwaltungsreform* (1977); *ders*, *Dynamische Verwaltungslehre* (2004).

### c) *European Administrative Science*

Finally yet importantly, the publications of the European Council should be mentioned, particularly those of its »*Council for local and regional authorities in Europe*«. These publications deal with central topics of local government units such as environment protection, citizens' participation, public transport, public services, public management, intergovernmental co-operation, etc. All these publications constitute a treasure, which should be of highest interest to the domestic discussion about administrative issues. This particularly concerns the studies of the *territorial reforms* that have taken place in Western Europe in the past 25 years and by which the principles of decentralisation, federalism and regionalism were implemented to a more or less wide extent. All these reforms were a precondition for strengthening local government and improving the autonomy of the municipalities and regions.<sup>5</sup> In other words, the modern term of *institution building*, based on multiple analyses (legal, financial, functional, gap analysis, etc.), is nothing else but what has been done in Western Europe during the last 30 years. There is no doubt that the ongoing territorial reforms in Eastern Europe, which have to be realised not only to improve the efficiency of administrative structures but also with regard to the harmonisation process within the united Europe, could profit a lot from these publications of the European Council. One does not exaggerate in saying that these publications could be the basis of a new European Administrative Science that is now in statu nascendi.

## 2. Reform platforms and action plans

A proper organisation of the reform process itself is a precondition for its success. Among many organisational initiatives for reform activities, the Austria Convent and the Administration Innovation Program are the most important.

### a) *The Austria Convent (Der Österreich Konvent)*

The Austria Convent began its work on June 30<sup>th</sup> 2003, and presented its final report on 28<sup>th</sup> January 2005.<sup>6</sup> The main task of the 10 panels was to

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<sup>5</sup> For efforts made in Croatia see *Kopric, Regionalism and Regional Development Policy in Croatia (2007)*.

<sup>6</sup> About the Austria-Convent in general see *Österreichische Juristenkommission (Hrsg), Österreich-Konvent*.

compile proposals for the fundamental reform of the state and constitution; the future constitution should allow cost-effective, transparent and citizen-friendly fulfilment of state tasks. The Convent, also called the constitution convent, dealt inter alia with the reform of public administration in Panel No. 6. The target of the reform was to establish a basic constitutional structure in order to allow the legislative branch to modernise the Austrian public administration by passing bills.

The main objective of the Convent – drafting a new Austrian Constitution – could not be achieved. In these circumstances, it is of no avail to examine whether this was caused by lacking conceptual abilities or by political jealousy. It remains to be seen whether the future approaches can be at least partly realized, although it is not very likely if we consider the different political interests and the lack of theoretical preparation of many proposals. Thus, the following approaches – internal modernisation and multilevel-management in a federal state – are subject to feasibility.

#### Internal modernisation:

This term contains the criteria such as the separation of strategic management from operational management, which allows the political leaders to concentrate on their main tasks. Furthermore, internal modernisation means critical and consistent review of the tasks of the state. This is connected with the decentralisation of task fulfilment focusing on the citizens' needs and on motivating public administration. In addition, efficiency should be increased by the introduction of the new forms of co-operation between the departments and political subdivisions. Apart from that, internal modernisation deals with new management tools<sup>7</sup> for the promotion of result-orientated management, modernisation of public services law<sup>8</sup> and global/output-budgeting.<sup>9</sup>

#### Multilevel management in a federal state:

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<sup>7</sup> For instance: strategic planning, target agreements, efficiency reports, cost accounting and results accounts or quality management.

<sup>8</sup> Besides demand-oriented assimilation of employment relationships with the private sector, the modernisation of public services law deals with the simplification and the enhancement of flexibility of the service and salary law.

<sup>9</sup> For instance: transition to a flexible budget management (global budgeting), strengthening the autonomy and responsibility of the departments, simplification of the rules dealing with accounting, result-oriented allocation of resources or securing of high-class information regarding the budget for the political leaders.

Multilevel management in a federal state deals with new forms of overall cooperation. According to the principle of subsidiarity, public services have to be provided locally as far as possible and centrally as far as necessary. A fair balance between decentralisation, which should guarantee the best performance delivery, and central co-operation and coherence must be found, e. g., to secure Austrian interests in the European Union. Furthermore, benchmarking is a very important tool for the analysis of scope, costs and quality of the services provided by similar public entities and federal subdivisions regarding increase in efficiency and quick distribution of innovative and citizen-oriented structures and proceedings.

When recapitulating Panel No. 6, the conclusion has to be drawn that the reform process has to be developed systematically over the next years based on a multitude of projects and analysis. As a result, the *public administration reform* should be continued as an *overall strategy* for the federal state, the counties and municipalities.

#### *b) Administration Innovation Program (Verwaltungs-Innovations-Programm, VIP)*

Another initiative concerning the administrative reform is the so-called Administrative Innovation Program (Verwaltungs-Innovations-Programm, VIP) of the Austrian government. The program aims at a citizen- and business-friendly, and an efficient public administration. Furthermore, the advantages of Austria's location should be secured together with a relevant reduction of costs.

The VIP advisory board – a body consisting of high-ranking departmental deputies – is responsible for the progress of the projects. During the runtime of VIP, a special VIP-database is available. It is constantly updated by the persons in charge of the projects and used for the evaluation of the projects.

Regarding its content, the VIP's emphasis lies inter alia in: Balanced Score Card, Flexibility Clause, Pm-sap, Help.gv.at, performance metrics (Austria and EU), Common Assessment Framework (CAF), tests of quality concerning public authorities, Speyerer quality-competition, EU-Best-Practices and OECD-Puma.

The Balanced Score Card (BSC) is an instrument of strategic business management; its main asset is the promotion of effectiveness of an organisation, which is achieved by consistently focusing on the targets. Ev-

ery organisation needs a vision of medium-term targets in order to be successful. The strategy gives the answer to the question »How do we get there?«. Since the implementation of a strategy often fails due to a gap between plans and activities, the BSC<sup>10</sup> closes these gaps by the use of consistent ratings by dint of performance metrics and by associating activities with strategic targets. Thus, the Balanced Score Card consists of a frame of targets, which are structured and coordinated, whereas every target is measured and implemented individually.

The Flexibility Clause concedes the departments the scope and responsibility of the administration of resources. In doing so, a more effective allocation of resources is assured. The aim is to strengthen cost consciousness and output-orientation. Thus § 17 BHG<sup>11</sup> concedes specified entities to administer their receipts and expenditures during the period of the project (end: 31 December 2006) autonomously. International operating experience shows that the motivation to take part in public reforms rises when independence and individual responsibility is conceded. Similar projects are very successful, especially in Switzerland and Germany.

*Pm-sap* is a reform project concerning human resources management of the federal executive, which – as managerial standard software – replaces the present IT-System. The federal government has ordered the federal administration to modernise human resources management and has set the goals, the budget, and an exact time for implementation. The readjustment of the software system should strengthen a service-orientated administration through decentralisation of the decision-making processes.

### 3. Some reform areas

#### a) *A Farewell to the »Welfare State«*

Public administration reform in Austria, which has taken place in recent years, also reflects the *transition from a welfare state to a lean state*, which is lately characteristic of the most western European states. In Austria, this development was accelerated by the changing of the majority in parlia-

<sup>10</sup> Significant characteristics of this steering tool are the drive for results, pro futuro orientation, thinking in coherences, assignment of quantitative and qualitative aspects, as well as the drive for implementation.

<sup>11</sup> Bundeshaushaltsgesetz (Federal Budget Act), BGBl 1986/213 as amended on BGBl I 2007/24.

ment from the social-democratic to the conservative-liberal. Even now, under the auspices of a social-democratic-conservative coalition, which was the result of the parliamentary elections in November 2006, it cannot be expected that the reforms of public administration will be cancelled in order to reanimate the »ancient regime«. There is a broad agreement between all parties that the liberal reform package has been necessary for the modernisation of the Austrian public administration as well as for the society in general. It must also be remarked that the newly defined standards and responsibilities – assessed in comparison with other western states – even today constitute Austria as a »welfare state«, maybe in a lighter form.

### *b) The major areas*

In general, the reform activities of the recent years can be structured as follows:<sup>12</sup>

- Legal reforms
- Reform of public tasks and services
- Organisational reforms
- Technical reform: E-Government
- New Public Management.

The following remarks are dedicated to some aspects of this reform. According to the multilateral approach, the reform measures do not constitute a coherent action, such as a »big bang«, but their realisation is determined by a strategy of incrementalism and step-by-step implementation.

#### *ba) Legal Reform*

Among the legal reform measures, one must distinguish between quantitative and qualitative deregulation.<sup>13</sup> The overall issue of the quantitative deregulation is the reduction of legal provisions in order to simplify the existing bureaucratic system and – hand in hand – to reduce the costs of public administration. In addition, special efforts have been made to make the legal system more comprehensible and transparent. As far as we can see at the moment, the results are rather poor because of the low standard of legislation in our country on the one hand, and the inevitable

<sup>12</sup> See *Wimmer*, *Verwaltungslehre*, 402 ff; regarding similar areas of reform in Croatia see *Kopriv*, *Priority Areas in Reforming Governance and Public Administration in Croatia*. <http://unpan1.un.org/intradoc/groups/public/documents/UN/UNPAN017009.pdf> (4. 1. 2007)

<sup>13</sup> *Wimmer*, *Verwaltungslehre*, 403 f.

interference of EU law on the other. The Austrian legal system shares the qualitative standards of most European countries.

bb) The reform of public tasks and services

The vision of a lean state is based not only on ideological premises like freedom and self-responsibility of the citizens, but it is also a consequence of the financial situation of most European states and their growing *budget deficits*. Apart from the question how to fulfil public tasks more efficiently and at lower costs, the *reduction of public tasks* themselves has to be considered. In the year 2001, the Austrian Government started a »Reformdialog« to clarify these questions and to elaborate the appropriate reform measures. Several commissions were set up, amongst them the »Aufgabenreformkommission«, which made a number of proposals to improve the organisational basis of public administration. The first issue of the »Aufgabenreformkommission«, the reduction of public tasks, could not be solved, as it did not succeed in defining the core competences of the state, which would have been a precondition. In everyday life, the question which tasks and services have to be executed by the state in the interest of its citizens is determined by pressure groups, lobbies and the bureaucracy. Moreover, it is – first of all – an ideological question. In any case, it can be solved neither by means of an academic discussion nor by establishing another commission. Thus, it is only logical that the »Aufgabenreformkommission« was not able to realize its ambitious program successfully. Nevertheless, it opened the way to a more objective discussion of the state competences as an alternative to an exclusively political decision.

bc) Organisational reforms: One stop shop

The reform of administrative structures in order to improve efficiency as well as performance and citizen orientation is the overall goal of the above-mentioned initiatives. In particular, the reform under the title »One stop shop«<sup>14</sup> tries to improve *citizens' access* to the decision-making units of public administration. In future, instead of the existing »labyrinth of competences«, citizens will have to get in touch with only one public authority at local level, the »Bezirksverwaltungsbehörde«. This authority has to co-ordinate all permanent permissions for the projects citizen(s) have applied for. Thus, the principle of »one-stop-shop« means a concentration

<sup>14</sup> Wimmer, Verwaltungslehre, 406; also Bock, E-government und Recht, in Gisler/Spahni (Hrsg.), E-Government, 155 (174 f).

of several procedures according to the diverse subject matters to one common procedure. One-stop-shop saves applicants' time and money. They are not confronted with several decisions of several authorities anymore, but with one competent civil servant.

## 4. E-Government – Austria

### *a) Introduction*

Modern Information and Communication Technologies (ICT) allow public administration to provide new electronic services on the Internet. Therefore, it is no longer necessary to make one's way to an office. The services offered are available electronically, irrespective of time or place. It is important to bear in mind that administrative matters can, but need not, be dealt with on the Internet. These services – called E-Government – are offered as an alternative, but are not compulsory. The traditional office continues to be open to all those who prefer personal contact with the authorities or who are not yet familiar with the new technologies.

These developments and changes of public administration affect not only Austria but also all member states of the European Union. E-Government can be used 24 hours a day. A number of Austrian administrative procedures can already be conducted entirely online. Sustainability, security and data protection are of fundamental importance.

### *b) The concept of E-Government*

#### ba) Requirements

A successful system of E-Government is based on three fundamental pillars:

- A clear legal framework<sup>15</sup> that can be understood easily and thus can become part of public awareness from the very beginning.
- Secure and therefore sustainable systems and services as a precondition for nationwide implementation and increase of citizens confidence in electronic administration services, and

<sup>15</sup> See 4.c).

- The use of sustainable technology based on *open standards* and *defined interfaces* in order to ensure continuous adaptation to the new technology.<sup>16</sup>

bb) Definition and principles

- Definition: Many attempts have been made to define E-Government. Summing them up one can say that at EU-level E-Government is defined as »the use of information and communication technologies in public administration combined with organisational change and new skills in order to improve public services and democratic processes and strengthen support to public policies«. <sup>17</sup> This is also valid for E-Government in Austria.
- Principles: E-Government in Austria is based on some important principles,<sup>18</sup> such as
  - *Proximity to citizens*: The administration must be at the service of citizens and not vice versa.
  - *Convenience through efficiency*: Citizens expect greater convenience from online procedures, e. g. no need to go to an office, no restrictive office hours, no waiting, not to be sent from one authority to the next. In order to meet these expectations, public administration must optimise the processes by automating them.
  - *Confidence and security*: The electronic contact with public administration must be just as secure as the classic visit to an office. Therefore, in the electronic world the identification and authentication of people is ensured by sector specific personal identifiers and the electronic signature. The secure exchange of information and transfer of data is guaranteed by defined security standards.
  - *Accessibility*: Services provided by public authorities must be available to everyone without discrimination. This also applies to the new electronic administration. E-Government is

<sup>16</sup> *Bundeskanzleramt*, Administration on the net. ABC guide to Austrian E-Government (2006) 18.

<sup>17</sup> COM (2003) 567 final; [http://europa.eu.int/information\\_society/eeurope/2005/index\\_en.htm](http://europa.eu.int/information_society/eeurope/2005/index_en.htm)

<sup>18</sup> *Bundeskanzleramt*, Administration, 24 ff.

to be available to all social classes and groups and technical and social barriers must be abolished.

- *Usability*: The range of electronic services offered has to be structured in an easily comprehensible and clear manner. A standard layout for forms and portal structure facilitates clarity and usability.
- *Data protection*: Citizens place a high degree of confidence in the Austrian administration with regard to data protection. The use of new technologies in administration allows that confidence to be extended to electronic administrative systems also. The use of the encryption mechanisms and electronic signature for authenticating people guarantees that the current high standard of data protection will be maintained. Sector specific personal identifiers, the mechanism developed specially for the purpose of identification conforming to data protection standards ensures that, as has been the case to this day, only authorised personnel within the administration can obtain access to personal data.
- *Sustainability*: The modular structure facilitates change management, which permits continuous further development. Open E-Government contributes to the improvement of competitiveness and thus to safeguard the Austrian position as a business location. In this regard, the strategic co-ordination of the use of new technologies within the administration is of fundamental importance.

### *c) Austrian E-Government legislation*

#### *ca) Generalities*

Austria is developing a nationwide and uniform E-Government. Security and data protection are the top priorities of this development. Therefore, the main legal basis is the E-Government Act, the Constitutional Law on Access to Information, the Data Protection Act of 2000, the Electronic Signature Act or the E-Commerce Act. In addition, many other Austrian acts imply E-Government regulations, for example the Code of Civil Procedure. The following is intended to explain the main legal basis mentioned above.<sup>19</sup>

<sup>19</sup> See detailed *Bundschuh-Rieseneder*, FS-Wimmer, 87 (95 ff).

cb) E-Government Act

The E-Government Act<sup>20</sup> serves as the legal basis for the instruments used to provide a system of E-Government and for closer cooperation between all authorities providing E-Government services. The new mechanisms – such as electronic signature for authentication, source PIN, sector-specific personal identifiers for identification or electronic service of documents – may also be used by the private sector. The most important principles, as defined in the Act, are freedom of choice between means of communication for submissions to public administration; security for the purpose of improving legal protection by creating appropriate technical means such as the Citizen Card;<sup>21</sup> and unhindered access to information and services provided by public administration for people with special needs by the end of 2007, in compliance with international standards governing web accessibility.

The E-Government Act has been complemented by the *Administrative Signature Regulation*,<sup>22</sup> the *Sector Classification Regulation*,<sup>23</sup> the *Source Pin Register Regulation*<sup>24</sup> and the *Supplementary Register Regulation*,<sup>25</sup> each of which defines in more detail some provisions of the E-Government Act and facilitates its implementation.

cc) The Constitutional Law on Access to Information

The Constitutional Law on Access to Information<sup>26</sup> is a Freedom of Information law that contains provisions for access to public information for the federal and regional levels. It stipulates a general right of access and obliges federal authorities to answer questions regarding their areas of responsibility, as long as this is not in conflict with their legal obligation to maintain secrecy.

However, it does not permit citizens to access documents, just to receive answers from the government on the content of information. Based on the provisions of this constitutional law, the nine Austrian provinces have enacted laws that place similar obligations on their authorities.

<sup>20</sup> E-Government-Act, BGBl I 2004/10. See also *Bundeskanzleramt*, Administration, 28 ff.

<sup>21</sup> E.g. chip card, USB-Stick or handy.

<sup>22</sup> BGBl II 2004/159.

<sup>23</sup> BGBl II 2004/289.

<sup>24</sup> BGBl II 2005/57.

<sup>25</sup> BGBl II 2005/241.

<sup>26</sup> BGBl 1987/286 as amended on BGBl I 1998/158.

cd) The Data Protection Act 2000

By implementing the Directive on Data Protection,<sup>27</sup> the Austrian Data Protection Act of 2000<sup>28</sup> provides for a fundamental right to privacy with respect to processing the personal data, which encompasses the right to information, rectification of incorrect data, and erasure of unlawfully processed data. It regulates the preconditions for the lawful use and transfer of data including mandatory notification and registration obligations with the Data Protection Commission.

Finally, it provides for judicial remedy in case of breach of its provisions and lays down the respective procedures before the *Data Protection Commission* and civil courts as well as penal and administrative sanctions for its infringement.

ce) The Electronic Signature Act

The *Electronic Signature Act*<sup>29</sup> came into force on 1<sup>st</sup> January 2000 and made Austria the first EU member state to implement the Directive 99/93/EC<sup>30</sup> on the Community framework for electronic signatures. The Act legally recognizes electronic signatures<sup>31</sup> satisfying certain security requirements and provides some evidential value to less secure electronic signatures. It is complemented by the *Electronic Signature Regulation*.<sup>32</sup> The conditions for the use of electronic signatures in the public sector, as well as for the use of Citizen Cards and Sector Specific Personal Identifiers are regulated by the *E-Government Act*.<sup>33</sup>

cf) The E-Commerce Act

The E-Commerce Act<sup>34</sup> implements the Directive 2000/31/EC<sup>35</sup> on electronic commerce. The Act deals with certain aspects of information soci-

<sup>27</sup> Directive 95/46/EC, ABJ 1995 L 281/31 as amended on Regulation 1882/2000/EC, ABJ 2003 L 284/1.

<sup>28</sup> BGBl I 1999/165 as amended on BGBl I 2005/13.

<sup>29</sup> BGBl I 1999/190 as amended on BGBl I 2005/164.

<sup>30</sup> ABJ 2000 L 13/12.

<sup>31</sup> See *Bundeskanzleramt*, Administration, 101 ff. About electronic signature see, e. g., *Bock*, E-Government und Recht, in Gislser/Spahni (Hrsg), E-Government, 155 (159 f); also *Bundschuh-Rieseneder*, FS-Wimmer, 87 (100 ff).

<sup>32</sup> BGBl II 2000/30 as amended on BGBl II 2004/527.

<sup>33</sup> See 4.c) bb).

<sup>34</sup> BGBl I 2001/152.

<sup>35</sup> ABJ 2000 L 178/1.

ety services, e.g. commercial online-services. According to the Act, such information society services are for example online-distribution, online-information, online-advertisement, access services or search engines. Therefore, the Act is applicable to virtually all services provided on the Internet. It sets the principles of freedom of service provision<sup>36</sup> and of country of origin<sup>37</sup> and provides for certain information obligations of providers of information society services for the benefit of their (potential) customers.

#### *d) National Infrastructure*

##### da) Help.gv.at

Help.gv.at is an Internet portal designed to guide Austrian citizens through administrative procedures. They shall be able to prepare and complete these procedures quickly and without difficulties. Help.gv.at provides citizens and residents with a single point of entry to detailed information about public services and administrative procedures, organised around approximately 200 life events or situations, like birth, marriage or passports. An online forum enables the user to submit enquiries or suggestions, to download official administrative forms and to conduct an increasing number of procedures online. A special service is provided for some specific groups – e.g. foreigners living and working in Austria or people with disabilities – too. *Help.gv.at* is continuously developed further into a transactional portal interconnected with regional and local government systems and was awarded for the best barrier free German language information portal in 2006.

##### db) Electronic File System

The Electronic File System was introduced in order to replace paper based filing and archiving in all Austrian ministries. An electronic file is created for every written request requiring an answer and every internal work of possible further interest. Therefore, every procedure can be audited anytime by viewing the file. This system at federal level means that many procedures can be conducted faster. Thereby reaction and processing time

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<sup>36</sup> The provision of information services does not require specific licences or permissions.

<sup>37</sup> Service providers merely have to satisfy the legal requirements for the provision of those services of their home country, e.g. the country in which the providers conduct their business operations.

can be reduced. Several provincial administrations in Austria have also introduced similar electronic file systems.

#### dc) Electronic Delivery System

In 2004, the Austrian Government launched an official electronic delivery service.<sup>38</sup> This service is designed to enable administrative procedures to be conducted by citizens from the application stage to delivery via internet. Citizens who wish to have documents served electronically can register with a delivery agent by using their Citizen Cards. Then they receive administrative documents via that delivery agent. It therefore allows public administrations and citizens to exchange messages with the guarantee that messages are effectively sent and received. In order to subscribe to the service any user needs a digital signature. Moreover, the document can be sent in encrypted form and only the holder of the decryption key can the decrypt it. The system is compatible with the Citizen Card and is meant to gradually replace all paper-based notifications from public authorities to citizens.

#### e) Summary

E-Government gives rise to a new kind of relationship between citizens and the public authorities. New means of communication and technologies offer free and open access to the virtual world of public institutions to their users. E-Government gives citizens the chance to participate directly in opinion forming and decision making processes. In future, the virtual world will make it easier to involve citizens in the legislative process at an early stage. Austria was one of the first EU member states to adopt comprehensive legislation on E-Government. As security and trust are critical factors in E-Government and E-Commerce, Austria uses the same standards and tools for both areas, i.e. citizen card function, electronic signature and electronic payment. This is a major contribution to securing the Austrian position as a business location. In the annual benchmarking of 20 basic E-Government services Austria moved up to a leading position, improving its overall ranking from 11 in 2003 to 4 in 2004. After running up in 2005, Austria achieved first place in the 2006 survey.

<sup>38</sup> See §§ 28 – 37 Delivery Act, BGBl 1982/200 as amended on BGBl I 2004/10. *Bundeskanzleramt*, Administration, 42 ff; *Bundschuh-Rieseneder*, FS-Wimmer, 87 (103).

## 5. The New Public Management

### a) *Philosophy*

One of the popular slogans of modern public administration, which also influences the reform of Public Administration in Austria, is the New Public Management.<sup>39</sup> This means a new orientation of public administration, changing from a *hierarchical model* to a *performance-orientated system*. The New Public Management is not an isolated issue of reform – it is an element of the philosophy and the politics of the »lean state«, which means the transformation of the welfare state, significant for Austria since the end of World War II, to a liberal state dominated by slogans like *de-regulation*, *liberalisation*, *market* and *competition*. Because all these values are also the principles of the EU Treaty, the ongoing political, legal and administrative transformation is also a necessary harmonisation with the basic EU-standards.

### b) *Elements*

- *Management systems*: The New Public Management is made up of series of principles and elements linked together. The starting point is the implementation of modern management models<sup>40</sup> in public administration (such as management by objectives, by exception, by delegation, etc.) Competences within a public body are shifted top down thus improving motivation and efficiency of the authorities as a whole. The necessary guidance is given by a description of issues and goals and not – as in the »ancient« system – by rules and instructions.
- *Products and contracts*: A core element of the New Public Management is the assessment of public tasks in the form of products. Between the political level (mandatory) and the executive level (contractor), contracts are concluded (Zielvereinbarungen<sup>41</sup>) which define the output and the financial resources. Within this frame, the contractor is free to decide on the modalities of his

<sup>39</sup> About the New Public Management see detailed e.g. *Wimmer*, *Verwaltungslehre*, 243 ff.

<sup>40</sup> *Wimmer*, *Verwaltungslehre*, 234 ff.

<sup>41</sup> See detailed *Wimmer/Müller*, *ZfV* 2006, 2 ff.

output. In that matter, he is responsible for the results of his performance.

- *Benchmarking*: The idea behind this contracting-management is to stimulate competition between suppliers of the same product. Benchmarking projects and »best practice« models help to identify how to realize a certain task of public administration best. As a long-term goal an advanced form of functional benchmarking should enable the top administrative level to decide whether it is better and more efficient to realize a defined product by themselves, by another administrative unit or, finally, by private enterprises.
- *Controlling*: There are close relations between the New Public Management and controlling which also serves the steering of decision-making processes. By providing the necessary information regarding programming, budgeting, execution, and evaluation of the administrative activities, controlling is an integrated element of the New Public Management.

### *c) Implementation steps*

In Austria, first tentative steps have been made to integrate the New Public Management in daily practice of public administration. In particular, the specification of administrative goals by defining them as products, as mentioned above, has already advanced to a certain degree. As an example for this but also as an example how much work is connected with this issue the description of products of the City of Innsbruck, which was the first city in Austria to start a reform of this kind, will be described as follows:

»As a first step each task of each unit/department of the authority was described, the outcome of which was a catalogue of tasks. The results were rather surprising: every day about 12,400 single tasks are fulfilled by the staff of the municipal administration.

Subsequently these tasks were evaluated and ranked according to their significance. About 500 staff members in key positions were interviewed:

- About the tasks they are involved in,
- About the time they spend on each task within one month,
- About the equipment they need to execute their tasks (telephone, computer, typewriters, etc),

- About the contacts to other units of the authority which are necessary to fulfil a certain task (e.g. requests for more detailed information).«

Based on these descriptions of administrative products many reform activities have been started in Austria. The loss of top positions in the organisation has led to the reduction of the hierarchy. In some branches of public administration an honorary system regarding the responsibility for products has been introduced. By doing so, the motivation of the civil servants has been increased.

Another practical impact of the New Public Management in Austria is the introduction of forms of contract management. Thus, to give another example, the management of the universities in Austria is marked by a chain of agreements, which correspond to contract management, as described above: The Ministry for universities concludes an agreement with the rector, in which the goals and the financial resources appropriated to these goals by the central state, are described. On the basis of this global agreement the rector makes contracts with all deans of the university. Part of these contracts is the expected performance of the faculties and the remuneration for this performance. As the third – and last – step the dean concludes contracts with the chairs of several departments of his faculty. Thus, the opening of the universities to the ideas of the New Public Management has brought a new cataract of contracts, which replace the old hierarchical system.

Of course, it is too early to give a final qualification of the results the New Public Management has brought to the administrative practice. However, there is no doubt that our administrative system, which has a very long tradition, has been modernized in different ways and directions, such as: the introduction of management methods, the improvement of performance orientated management, the introduction of quality management, benchmarking, citizen orientation, deregulation, etc. Of course, the New Public Management cannot substitute all hierarchical structures of public administration. Doubtlessly, a new wind of change has brought modernization to public authorities, bodies and enterprises.

## References

1. Baier, Horst (2005) Organisationsoptimierung und Prozessmanagement in Öffentlichen Verwaltungen, in: Asghari, Reza (ed.) *E-Government in der Praxis. Leitfaden für Politik und Verwaltung*. Frankfurt: Software and Support Verlag GmbH, 35–66.

2. Christian, Bock (2001) E-Government und Recht, in: Michael, Gisler, Dieter, Spahni (eds.) *E-Government. Eine Standortbestimmung*. Bern: Verlag Paul Haupt, 155–181.
3. Bundeskanzleramt (2006) *Administration on the net. ABC guide to Austrian E-Government*. Federal Chancellery Austria.
4. Bundschuh-Rieseneder, Friederike (2007) Österreich als »Online-Republik«? E-Government: eine Zwischenbilanz, in: Recht-Politik-Wirtschaft. Dynamische Perspektiven (Festschrift für Norbert Wimmer). Wien: Springer Verlag, 87–110.
5. Bußjäger, Peter (1999) *Die Organisationshöhe und Modernisierung der Landesverwaltungen*. Schriftenreihe des Institutes für Föderalismus, Band 91. Braumüller Verlag.
6. Eichhorn, Peter, Siedentopf, Heinrich (1976) *Effizienzeffekte der Verwaltungsreform*. Baden-Baden: Nomos Verlagsgesellschaft.
7. Holzinger, Gerhart, Oberndorfer, Peter, Raschauer, Bernhard (eds.) *Österreichische Verwaltungslehre*. Verlag Österreich.
8. Kißler, Leo (1997) Kundenorientierung der Kommunalverwaltung – eine dritte Säule der lokalen Demokratie?, in: Bogumil, Jörg, Kißler, Leo (eds.) *Verwaltungsmodernisierung und Lokale Demokratie*. Baden-Baden: Nomos Verlagsgesellschaft, 95–112.
9. Koprić, Ivan (ed.) (2003) *Modernization of the Croatian Public Administration*. Zagreb: Faculty of Law and Konrad Adenauer Stiftung.
10. Koprić, Ivan (2007) Regionalism and Regional Development Policy in Croatia, in: Political Studies of Pécs IV.: *Regional Decentralization in Central and Eastern Europe*. Pécs, Hungary, 87–110.
11. Neisser, Heinrich, Hammerschmid, Gerhard (eds.) (1998) Die innovative Verwaltung – Perspektiven des New Public Management in Österreich. *Schriftenreihe des Zentrums für Angewandte Politikforschung*, Band, 18. Wien: Signum Verlag.
12. Peter, Oberndorfer (ed.) (1981) *Bürger und Verwaltung*. Institut für gesellschaftspolitische Grundlagenforschung, Band, 4.
13. Österreichische Juristenkommission (ed.) (2004) *Der Österreich-Konvent. Zwischenbilanz und Perspektiven* (Festgabe für Herbert Schambeck). Neuer Wissenschaftlicher Verlag.
14. Schedler, Kuno (2001) Grundlagen des E-Government, in: Gisler, Michael, Spahni, Dieter (eds.) *E-Government. Eine Standortbestimmung*. Bern: Verlag Paul Haupt, 31–51.
15. Wenger, Karl, Brünner, Christian, Oberndorfer, Peter (eds.) (1983) *Grundriß der Verwaltungslehre*. Köln, Wien: Böhlau Verlag.
16. Wimmer, Norbert (1977) Das Einmaleins der Verwaltungsreform. *Schriften zur Verwaltungswissenschaft*, Band 4. Berlin: Duncker and Humblot Verlag.
17. Wimmer, Norbert (2004) *Dynamische Verwaltungslehre*. Wien: Springer Verlag.
18. Wimmer, Norbert (2007) Modernisierung der Verwaltung am Beispiel Kroatiens, in: Dirk Heckmann (ed.) *Modernisierung in Justiz und Verwaltung* (Gedenkschrift für Ferdinand O. Kopp), Boorberg Verlag (forthcoming).

19. Wimmer, Norbert, Müller, Thomas (2006) Zielvereinbarungen im Verwaltungsaltag. LexisNexis Verlag, *Zeitschrift für Verwaltung*, Heft 1, 2–9.

## REFORM OF PUBLIC ADMINISTRATION IN AUSTRIA ACTIVITIES AND PERSPECTIVES

### *Summary*

*The normal state of public administration is not stability but mobility. Therefore, the public administration reform is not a state of emergency – it is typical for its normal »living« condition. Reform is the constituting principle of public administration. It is only by this institutional mobility that public administration is able to meet the changing requirements of society. Ideally, the overall issue of reform should be the transformation of public administration into a system that all by itself reacts on its changing tasks and automatically modifies the framework of decision-making.*

*The reform of public administration must comply with political rationality and efficiency. The importance and significance of these goals may differ and depend on the relevant political issues. Sometimes it may be a higher level of democracy and participation, sometimes the improvement of social performances, sometimes reduction of state responsibility by means of deregulation and privatisation. These goals contradict each other as do public reforms themselves. Considering these contradictions the simple question whether a public reform is »good« or »bad« is not to be answered easily. This is also the reason why public reforms, if they are more than technical improvements, normally do not get a general consent.*

*There is no doubt that the recent efforts of public reforms in Austria are positive. The international trend to reduce state responsibilities and to make public administration more efficient has been met by measures that have also been taken in Austria. In particular, the (tentative) implementation of the action programme provided by the New Public Management is a signal for the will and ability of all public actors to modernize public administration. In this context, it is remarkable that the individuals affected have not opposed the realization of this concept in a fundamental way. It is evident that the reform concepts could not be realized one to one. The actors were often forced to compromise and to meet the opponents halfway. Considering all these aspects, it is also understandable that the recent public reform cannot be seen as a general concept characterized by logical consistency but as a project consisting of several parts with different levels of realization. Therefore, the ongoing reforms in Austria do not only have to be seen as a success but more than this as a promise for the future.*

Key words: *public administration reform – Austria, public administrative science, e-government, new public management, welfare state, lean state*

## REFORMA JAVNE UPRAVE U AUSTRIJI AKTIVNOSTI I PERSPEKTIVE

### Sažetak

Normalno stanje javne uprave nije stabilnost, nego promjena. Zato reforma javne uprave ne označuje nekakvo izvanredno stanje, nego njezine uobičajene »životne« uvjete. Reforma je temeljno načelo javne uprave. Samo kroz promjene institucija javna se uprava može prilagoditi zahtjevima i uvjetima društvene okoline. Opći cilj upravne reforme je promjena javne uprave u sustav koji sam od sebe reagira na promjene zadataka koji mu se postavljaju i automatski prilagođuje okvir donošenja odluka.

Reforma javne uprave mora biti uskladena s političkom racionalnošću i efikasnošću. Važnost i izraženost političkih ciljeva može se razlikovati, a ovisi o pitanjima koja su politički relevantna. Ponekad je to viša razina demokracije i sudjelovanja građana, ponekad poboljšanje javnih usluga, ponekad ograničenje državnih odgovornosti putem deregulacije i privatizacije. Ti su ciljevi suprotstavljeni jedni drugima, jednako kao i reforme javne uprave koje ih pokušavaju doseći. Zbog tih se suprotstavljenosti ne može lako odgovoriti na pitanje jesu li upravne reforme dobre ili loše. One su ujedno i razlog zašto upravne reforme obično ne dobivaju opću podršku čim se ne svode na mjere pukog tehničkog poboljšavanja javne uprave.

Nema sumnje da su noviji pokušaji reformi javne uprave u Austriji pozitivni. Austrija poduzima mjere uskladene s trendovima u drugim zemljama usmjerenima prema ograničavanju državnih odgovornosti i poboljšanju efikasnosti javne uprave. Osobito je okvirna primjena akcijskog programa utemeljenog na novom javnom menadžmentu pokazatelj volje i sposobnosti javnih aktera da moderniziraju javnu upravu. U tom se kontekstu može zapaziti da se pojedinci zahvaćeni reformskim mjerama ne opiru znatnije njihovu ostvarenju. Jasno je da se ne mogu ostvariti svi reformski koncepti. Akteri su često prisiljeni na kompromise i djelomično prihvaćanje suprotnih gledišta. Uzevši u obzir sve te aspekte, razumljivo je da novije upravne reforme ne mogu biti zasnovane na jednom općem konceptu obilježenom logičnom usklađenošću svih mjera, nego su projekti koji se sastoje od više dijelova s različitom mjerom ostvarenja. Zato se sadašnje reforme u Austriji ne mogu smatrati uspjehom, nego više od toga – obećanjem za budućnost.

Ključne riječi: *reforma javne uprave – Austrija, znanost o javnoj upravi, e-uprava, novi javni menadžment, socijalna država, vitka država*