

EVOLUTION OF THE GOVERNMENT SYSTEM AFTER THE POLITICAL CHANGE IN HUNGARY (1990-2009)

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ABSTRACT: *The paper examines the changing trends of the relationship between politics and administration.*

The transformation of the government's structure – reorganization its internal relations, developing its politics shaping role, ceasing the vice-ministerial and government-committee systems - has already began within the one party system. However, the final break up with the socialist government model was implicated by the constitution amendments in 1989-90, which was necessary for a transition to a constitutional state. The result of the change of the political system was a new democratic system, where the position of the government changed a lot. In contrary to the socialist system it became the centre of politics, whereas its power was controlled and restricted by the institutional system determined by the rule of law and the division of power principles. The constitution strengthened the position of the Prime Minister and the former principles of the government's internal relations and construction were cancelled.

KEYWORDS: *government system and political change; position of the Prime Minister; structure of the government.*

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The structure of state establishment adequate to the socialist political ideal was present in Hungary until 1987-88. The government - with the appropriate terminology of those times Ministers' Council - barely had any political function, it played most characteristically an administrative and executive role. The political role of the government was taken over by key ministries - home affairs, foreign affairs, national defence – being under direct party control. The government's responsibility for these fields did not appear in the constitutional description of its activity. (Of course this mechanism can not be simplified, because the vast majority of political decisions were prepared and initiated by the state apparatus, and government leaders took also part in the decision making processes due to their party functionary role. Not to mention those periods, when even the government was headed by the party leader.) Still, the politically weak government was outweigh in the state and in society as well because of their political instruments. It could operate almost without any constitutional bridle, without state organisational checks and balances it possessed a hardly restricted and controlled power.

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The role of the Prime Minister within the Ministers' Council was not highlighted; he even did not have the right to form a government. The Prime Minister's legal position was almost identical to the other ministers, he was only the first among equals, who's role as the president of the Ministers' Council was not more than being a moderator the of the sessions. From the constitutional point of view the Prime Minister and other government members were almost equal, whereas the different quality of government memberships - Vice-president of the Ministers' Council, State minister, Minister - made a difference between their legal positions and led to a hierarchy under the Prime Minister, and led to a multi level structure headed by the Prime Minister. The usually autonomous vice-presidents of the Ministers' Council (5 from the 20 of the Lázár Government members in 1987) exercised an uncontrolled supervision over their portfolio or over other type of governmental organs, and they led the powerful and specific government-committees, which were empowered to act instead or in the name of the government. Government-committees and vice-presidents (quasi top ministers) on the one hand held together and coordinated governmental operations on their field of scope and relieved the government, but on the other hand as an autonomic operative level with exaggerated competences their activity weakened the government and the Prime Minister, which led to the disintegration of governance.

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POSITION OF THE PRIME MINISTER

It has been a main feature of the Hungarian governmental system since 1990, that the position of the Prime Minister is highlighted. The rights deriving from the constitution [1] put the Prime Minister in a key position: he sets up the government, he constitutes its program, he selects his deputy from among the ministers. Further rights deriving from his original constitutional function are the administrative rights to lead the sessions of ministers, and his valuable but disputable right remained from the past, that he is able to neglect the government and take decisions instead or in the name of it. The Prime Minister disposes over the ministers because he owns the right of forming a government; he selects and discharges the ministers. The ministers' fate is depending on him in other aspects as well, if the Prime Minister dies or resigns, or if the Parliament lacks of confidence in him, the mandate of the government ceases. The ministers owe direct political responsibility to the Prime Minister. However, the constitution states the parliamentary responsibility of the ministers'; it becomes meaningless, as it excludes the possibility of initiating a motion of non-confidence against a minister. A motion of non-confidence can be initiated only against

the Prime Minister, but then it applies for the whole government. The Parliament with its available instruments - interpellation, question, immediate question, interrogation, and committee listening before charging a minister - can cause some inconvenience to the ministers and does not leave the government without any control, but all these instruments have no consequences, because they are not vested with expressing non-confidence.

The political position of the Prime Minister was strengthened against the Parliament and the Opposition by the institute of constructive motion of non-confidence, taken over from the German constitution. The Prime Minister loses his mandate only if the Parliament elects his successor at the same time as well. In order to ensure that the governments stay stable and to be able to complete their parliamentary cycle, the limitation of the oppositional instruments was needed. A motion of non-confidence can only be successful, if the Prime Minister loses the support of the majority of Parliament, and there is a consensus over the person of the new Prime Minister as well. For almost 18 years, until the middle of the fifth parliamentary cycle after the change of the political system, the institute of motion of non-confidence has had only a representative and theoretical role. The first possibility to implement this measure occurred in the spring of 2008, when the socialist-democrat coalition broke up and the Gyurcsány government lost its parliamentary majority, but eventually it was used first in 2009. In the Hungarian political thinking the motion of non-confidence is not only a difficult instrument in the hands of the opposition, but in contrast to its real goal, also the government side makes allowance of it, when it is forced to change the Prime Minister during the cycle (that is how Gordon Bajnai changed Prime Minister Ferenc Gyurcsány in 2009). The government parties prefer the use of motion of non-confidence to the simple resignation of the Prime Minister, because on the one hand the new Prime Minister is not forced by the constitution to present a new government program, but also because this way the President of the Republic lacks the competence to nominate the successor. Without the interaction of the President of the Republic the change of government can be accomplished more smoothly and quickly.

The rights of the Prime Minister and the fact, that the fate of the ministers' and the government - because of the non-confidence rules as well - is bound to his person, makes clear the primacy of the Prime Minister within the government. His former constitutional position, namely that he was only the first among equals, is no longer valid. The Hungarian government according to its constitutional situation has become a "Prime Minister government" since 1990. [2]

In contrary to the socialist model, not the board has a president, but the Prime Minister has a board, where he has semi-strong power. In international political comparison his position can be compared to the German chancellor.[3] The Hungarian model could be described as a chancellor type government, because the German constitution served as an example in 1990 and later on as well. However, this conception is often misleading, because through overrating and misunderstanding the competences of the German Chancellor could suggest some kind of dictatorial power.

The role of the Prime Minister changes from cycle to cycle, but the general direction is the broadening of his powers – with the same tools until 2006 – , which has been clearly perceptible since the Orbán government (1998). The role of the Prime Minister's Office, as the organisational background of the Prime Minister, became stronger as well, and

strengthened parallel and it became a professional and communicational government centre. In 2006 an organisational law [4] broadened the Prime Minister's rights further, at the expense of the ministerial independence, the resort principle, and the government as a board principle. The new law was deductible from the constitution, and realized what the Prime Ministers constitutional rights have aimed since 1990. Now it was clearly defined, that the Prime Minister leads the government as a chief and he is authorized to guide his ministers. The real essence of the German chancellor's power was taken over by this measure, not with the introduction of the motion of non-confidence procedure. Just like in the German example, the Prime Minister sets the general direction of the government politics within the government program and the ministers act within the government program and political guidelines defined by the Prime Minister.

Political sciences describe the process leading to a presidential government structure with the description of past governments: Antall and Boross government preferably cabinet type government (1990-1994), Horn government preferably minister presidential type government (1994-1998), and from 1998 Orbán, Medgyessy and Gyurcsány governments show characteristics of a "presidential governance". [5] The dominance of the Prime Minister did not eliminate the board feature of the government in a constitutional legal sense. Although the importance of the weekly government sessions – as a venue of political and professional debates and coalition conciliation – decreased compared to the beginning (Antall government), and it remained a formal presentation and communication scene.

Not necessarily and primarily the broadening of the Prime Minister's power led to the current situation, but with its formalized institutions (compliances, sessions of state secretaries, special cabinets, government cabinets) and unregulated procedures (political and coalitional compliances or decision preparing discussions at the Prime Minister) the evolution of the decision preparation system generated, that the government session only sanctified the decisions formed by other levels of administration (not exclusively and mandatory, it was just an increasing tendency).

THE STRUCTURE OF THE GOVERNMENT

Since 1990, the government - from that point its official name as well - consists of the Prime Minister and of the equal ministers in constitutional legal sense. A minister can have a ministry, or they can be ministers without a portfolio, a form of institution known from the history of the Hungarian state. (One should not mix them up with the previous state ministers, however their legal status is not distinguished from each other.) The difference between them is that that the minister without a portfolio does not head, but supervises, guards and coordinates organisations or special fields from an external position.

The constitution does not mention the number of government members, although the number of ministers without portfolio can not be higher than one fifth of the number of all ministers' since 2006. From this fact derives an odd interest, because more ministries allow more ministers without a portfolio.

Composition of governments

(with regard on government restructurings)

<i>Antall and Boross government: 1990-1994</i>	Prime Minister + 13 ministers with portfolio + 3-6 ministers without a portfolio	17-20
<i>Horn government: 1994-1998</i>	Prime Minister + 12 ministers with portfolio + 1-2 ministers without a portfolio	14-15
<i>Orbán government: 1998-2002</i>	Prime Minister + 13-14 ministers with portfolio + ministers in charge of the Prime Minister's Office + 2 ministers without a portfolio	17-18
<i>Medgyessy government: 2002-2004</i>	Prime Minister + 14 ministers with portfolio + minister in charge of the Prime Ministers Office + 2 ministers without a portfolio	16-18
<i>first Gyurcsány government: 2004-2006</i>	Prime Minister + 14 ministers with portfolio + minister in charge of the Prime Ministers Office + 2 ministers without a portfolio	18
<i>second Gyurcsány government: 2006-2009</i>	Prime Minister + 11-12 ministers with portfolio + minister in charge of the Prime Ministers Office + 1-2 minister(s) without a portfolio	13-16
<i>Bajnai government: 2009-</i>	Prime Minister + 12 ministers with portfolio + minister in charge of the Prime Ministers Office + 2 ministers without a portfolio	16

Although the demand for the supervision of the constitutional system from time to time arises, the position of a deputy Prime Minister or a chief minister in this role is missing. The government model formed in 1990 emphasizes the equality of ministers and rejects the former vice-presidential government committee system, which generated further hierarchical relations under the Prime Minister, and led to the disintegration of the government. The principle of the equality of ministers and the constitutional common responsibility of the Prime Minister and the government strongly influenced the decision making and decision preparing procedures and institutes of the government, which has changed in every cycle according to the concept of the given administration, but its main essence was maintained. The principle more or less always prevailed, that the special cabinets (economical, state security, est.) organised for the replacement of the former government committees (formed by ministers, exceptionally led by the Prime Minister), or other kinds of boards (established by the special cabinets), formally it can not take over the functions of the government and can not pass decisions instead of it. This applies to the government cabinet as well. The government cabinet has been functioning since 1994, as the presidency of the government, led by the Prime Minister. Its main goal was the preparation of the government sessions, through defining the debatable issues, estimating the political effect of future decisions, handling with coalition compliances. (It is another question that in case of governments operating in average with a small number of ministers (16-17), an institution like this seems unnecessary. More likely, because the political function of the government cabinet can be replaced by informal meetings.)

Despite the principal of equality of ministers within the government, the role of the ministers' can be very different, for example the minister leading the Prime Minister's Office has advantage through its coordinating functions. Their real importance and the power

relations within the government are determined by several factors. These factors are: the significance of the minister's portfolio, which changes from cycle to cycle or even within the cycle; political background; positions held in the party; aspects of the coalition; personal gifts; relation to the Prime Minister; deputising the Prime Minister; leading a special cabinet; cabinet membership. From among the portfolios, the financial portfolio is always strong because of the budgetary restrictions, and the justice portfolio has a special power as well, because at least its agreement is needed to initiate a legal draft to the government.

Since 1990 only temporary substitution of the Prime Minister is possible (but than in all of his competences), given that the deputy Prime Minister position is missing from the government structure. Due to the Prime Minister's strengthened position, the competence to choose his deputy from among the ministers belongs to him, and it based on his personal intuitions. The deputy's charge is temporary and it does not contain autonomous decision making or executive powers within the government. The nomination on the position is not a facultative decision of him; it is a constitutional obligation in order to ensure the constant workflow. If the Prime Minister fails to nominate his deputy, the absence of him could paralyze the government, which can have serious public legal consequences. Regarding the Prime Minister's practice we can state, that the selection of the deputies was motivated mostly by the principle of confidence, or the strengthened position of the Prime Minister's Office and the weight of party policy, exceptionally the importance of the ministers portfolio, and only once the coalition principal under the Horn administration in contrast to the international examples.

THE RELATIONSHIP BETWEEN POLITICS AND PUBLIC ADMINISTRATION, THE POSITION OF SECRETARIES OF STATE, THE TWO STATE LEADERSHIP MODEL

The first concept of the state leadership and secretary of state system after the regime change (1990-2006) was based on the idea of the separation of public administration and politics. [6] According to this model the governments constantly succeed each other, the political office holders, ministers and secretaries of state rotate, but the professional managers of public administration, administrative secretaries of state, and their deputies are independent from the political environment and stay in office even after government successions. They ensure stability and continuity, their indeterminate civil servant status makes it possible for them. This model had great promises for the managers of public administration; they enjoyed stability in return for their proficiency, expertise, loyalty to the all-time government, and party political neutrality.

This model took a legal shape right before the Antall administration came into power in 1990. By adopting this model the professional nature of the manager level of public administration and its occupational kind was appreciated; and it was exposed to what the country disposes over only one management elite of public administration, which can not be exchanged in every parliamentary cycle. This kind of approach of the relation of the manager level of public administration and political leaders made it possible or at least made it easier to nominate such experts for high positions in public administration, who had their experience

and expertise from the communist era or were even senior leaders (permanently or occasionally).

In contrast to the 16 years old ideal expressed in legal acts, the stability and continuity of manager level of public administration did not materialize and the secretaries of state were exchanged from government to government in an increasing volume – first wave of change is right after the government succession, followed by others during the cycle – and its composition was increasingly influenced by politics. (As a result, after the formation of the Gyurcsány government in 2006, there were only 3 administrative deputy secretaries of state, who have been operating as administrative executers after the change of the political system not necessarily at the same place, but as senior state functionary.) That was all legal and happened without any difficulties, because the rules on the secretaries of state system were not completed. Stability and continuity laid down in the law were only principles without any guaranties. Secretaries of state were appointed for an indefinite time, but it had no use since the legal guaranties of the continuity of their position were missing. They were easy to remove, any time without any justification, and without the right to appeal.

It is imputable for the politics, that it has caused damages in every cycle by the often over exaggerated and in constantly decreasing human staff changes, removing talented managers of public administration and charging less qualified or unqualified ones, resulting unnecessary suspicion and mistrust from the political leaders side.

All parties in the Parliament are seeking each others responsibility, however each government took part in this process and the political influence on the composition of the group of chief managers of public administration has already began at the birth of this model, under the Antall administration. [7] The political nominations of a former government predict a vast majority of the exchanges in the following government, though the volume, exaggeration and unfairness of the exchanges in human resources are not verified. The behaviour of the governments of different colours coming one after the other reflects, that a chief manager of public administration has to be a professional and needs not only political and personal confidence, but has to show political loyalty, and it is also expected, that a chief manager of public administration identifies at least on its own field of expert with the government politics.

The human resources selection criteria of this model prefer political and confidential aspects; professionalism, loyalty and party neutrality of managers of public administration are neglected, which could be a primer reason for its failure. In other words the basic problem is the strict separation of ideal, politics and public administration, separation of administrative and political chief executives, like the political and professional parts could be separated during the decision making process. The roles are deductable from the above, politics decide, public administration and its manager level implement the decisions. However, the process is more complicated than that. Decisions taken at the political level always have professional content, and the political aspects are always re-examined by administrative managers. Managers of public administration usually do not remain in their executive positions, but take part in the shaping of political guidelines. Directly or indirectly they manage political projects, and their activity has an effect on politics. Several personal carriers back up, that the borderline between politics and public administration is relative and easy to cross. A manager of public administration can turn into a minister within the next government, but it

is possible to change – with an immediate step - between the two spheres also within a cycle. It is important to see beside the transition between the two spheres, that there always have been two types of managers in public administration. The aim of this model applies to only one of the types, the party neutral professional manager, but it did not think of the other type, the one who is politically committed. This type requires no stability, because these leaders are not willing to serve the opposition groups.

The other weak point of the model derives from the separation of politics and public administration: the apparatus and the office of the ministries is not led by the alternating political leader (the minister), but by the administrative secretary of state, who was committed to ensure stability and continuity. The minister theoretically could interact with the apparatus of the ministry only through the secretary of state. The situation developed by necessity in a different way, according to the expectations of the politics and the Prime Ministers, the portfolios were mostly in the ministers' hands, who were acting as office leaders as well. The administrative secretary of state could not succeed against the minister and could not obstruct his conceptions, because he was personally dependent on the minister and on the politics. In case of conflict he was any time exchangeable, and in the worst case dischargeable.

This ideal has turned over in the second state leadership model implemented by an organizational law in 2006: the political and professional managers of the central administration received identical status, because their mandate became effective for only one cycle. There is only one type of secretary of state beside the minister, and the deputy secretaries of state were exchanged by special secretaries of state. As an important point of the change, the minister - with the secretary of state standing behind him – is the head of the ministry office and staff and is their leader in a political and professional sense as well. This solution made the existence of the administrative secretary of state unnecessary.

The new state leadership model – mainly because of ceasing the status of the administrative secretary of state – is not very popular, it is usually judged very intensely by the profession, the media, opposition and government politicians as well. However, the main essence of the new model, putting the chief managers of public administration into a political status, is reasonable and defensible, especially because the former appealing but not viable model failed because of its contradictions.

Its success is actually up to the selection of the right persons. This is assuming, that only such minister and secretaries of state (minister – secretary of state pairs) receive nomination, which is not only politically but also professionally able to properly exercise the executive functions. The practice of nominations does not respect this aspect and the professional leadership element of the model is overshadowed. (Ministries were often headed by party politicians, and characteristically party politicians were preferred for secretary of state positions.)

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