

# **Europeanisation and the reform of the State: The influence of the European Union in the reform of the Czech public administration (1993-2004)**

Magdaléna Hadjiisky [magdalena.hadjiisky@misha.fr](mailto:magdalena.hadjiisky@misha.fr)

Senior researcher in political science, Centre for European Political Sociology (GSPE)

Translated by Jesse Tatum and Jean-Yves Bart.

Keywords: European Union, State, Reform, Central administrations, Czech lands.

Mots-clés : Union Européenne, Etat, Réforme, Administrations centrales, Pays tchèques.

# Europeanisation and the reform of the State: The influence of the European Union in the reform of the Czech public administration (1993-2004)<sup>1</sup>

Magdaléna Hadjiisky [magdalena.hadjiisky@misha.fr](mailto:magdalena.hadjiisky@misha.fr)

Senior researcher in political science, Centre for European Political Sociology (GSPE)

Translated by Jesse Tatum and Jean-Yves Bart.

## Introduction

The question of the status of public administrations – outwardly a technical one – appears as an important political issue in the post-communist context. The form and place of the State is one of the main issues (political and scientific) raised by post-Sovietism<sup>2</sup> in East European societies. The administration of the former regimes, along with the Communist Party, has embodied the Soviet type of centralised state control. It constitutes a particularly relevant context to evaluate the evolution of the form and action of the State in these new democracies. The administrations in socialist countries were based on the explicit rejection of the separation of powers. Administrative staff organisation was based on partisan selection and on the management of civil servants, as well as on the denial of a statutory identity specific to the civil service. The debate on the status of civil servants and services provided by the State has allowed for the redevelopment of a fundamental aspect from the former system: partisan intervention in the selection and management of personnel, and consequently, a degree of political autonomy for the administrative staff. More generally, the treatment of civil servants is important evidence of the conception of the State that prevails at any given moment in history.

Over the years, the reform of public administrations has become, among others, one criterion in the evaluation of the capacity of Central and Eastern European countries (CEEC) for EU integration. In conjunction with other international organisations like the OECD or the World Bank, the European Commission and the PHARE programmes became involved in the issue during the negotiations about the eastern enlargement of the European Union. Certainly, the organisation of national administrations, in principle, is not within the scope of the EU. Nevertheless, the White Paper published in 1995 regarding the preparation of the candidate countries insists on the necessity for these countries to not only harmonise their legislations, but also to equip themselves with an administrative capacity to implement the *acquis*. The

---

<sup>1</sup> This working paper is a translated and updated version of an earlier publication: « Européanisation et réforme de l'Etat. L'influence de l'Union européenne sur la réforme des administrations publiques centrales tchèques (1993-2004) », in O. Baisnée, R. Pasquier, eds., *L'Europe telle qu'elle se fait. Européanisation et sociétés politiques nationales*, Paris, CNRS Editions, 2007, p.167-193. Many thanks to Jesse Tatum and Jean-Yves Bart for their precious help on the English version.

<sup>2</sup> “Sovietism” indicates a system based on an economy [production, allotment, consumption, costs] and a society [work and trade unions, culture, collective organisations] administered by a centralised bureaucracy and controlled by the ruling party.

latter specification potentially covers almost all public domains, as well as the operational rules of national and regional administrations (Grabbe, 2001).<sup>3</sup>

Therefore, it is necessary to evaluate the EU's role in the process of reform of the central public administrations in the former candidate countries. To what extent is it possible to speak of a progressive Europeanisation of the reform of the post-Soviet State? Moreover, does the European Union promote an administrative 'standard' in these countries, and if so, which one?

Authors working on the effects of the accession process on central public administrations, and national executives in the CEECs, have drawn inspiration from the studies on 'Europeanisation' in the Member States in order to assess the institutional evolutions caused by EU candidacy (Goetz, 2000: 212). There can be direct effects when they are binding (e.g. the power of injunction), or indirect in the case of the spillover effects from EU structures or administrative practices at national level (e.g. the power of influence) (Radaelli, 2000: 8). Administrative Europeanisation in the Member States tends to ensure the predominance of executive power, as well as the legislative power of senior officials who specialise in European issues, which reinforces the technical nature of public policies. After the beginning of the accession negotiations, the CEECs have experienced a similar trend: first of all, national executives were favoured in the accession process to the detriment of parliaments and regional representatives. Secondly, administrations tended to create highly trained teams that focused on the specific qualifications expected for the management of European issues. Given the lack of equivalent resources within the elected assemblies, the process of adopting the legislation of the *acquis communautaire* has tended to be dominated by the executive power.<sup>4</sup> In essence, the spillover effects were induced by the negotiation process itself and can be thought of in terms of adaptation though anticipation.<sup>5</sup>

Nevertheless, the institutional use of the notion of Europeanisation, in this case, does not seem to suffice. In restricting their analysis to the institutional issue, the majority of these studies fail to take into account one fundamental aspect of influence that the EU exerts in the CEECs. In the Eastern European context, 'Europeanisation' does not necessarily mean 'EU-Europeanisation' or 'Unionisation' (Wallace & Wallace, 2000). Instead, the historical relationship with Europe that predates the beginning of accession negotiations should be fully taken into account. The discourse of 'a return to Europe', significant since 1989, identifies several models of reference whose virtues are emphasised by national actors as ingredients for the transition to democracy and to a market economy. In this context, the EU is one reference in a political and social transformation process in which political cleavages and social conflicts develop. In other words, it is equally in terms of values and strategies of re-appropriation of a (or rather of several) general reference model(s), or of models created by some Member States (Great Britain, Germany) or non-members of the EU (United States), that the Europeanisation of the CEECs is concretely conceptualised and practiced often more in terms of 'Westernisation' than of 'Europeanisation'.<sup>6</sup>

---

<sup>3</sup> Certain European actors, especially the Commission, have particularly benefited from the opportunity afforded by eastern enlargement to extend their prerogatives (Robert, 2001).

<sup>4</sup> These reports have led a group of researchers to the conclusion that one effect of eastern enlargement may be the exportation of the EU's democratic deficit to these young democracies. See, Special issue, *Journal of European Public Policy*, 2001, 8 (6).

<sup>5</sup> This process of executive re-centralisation can also be seen in the field of regional policy (Aïssaoui, 2005).

<sup>6</sup> This point directly links to Lippert's (et al.) criticism of K.H. Goetz (Lippert, 2001).

Europeanisation is dependent on the internal political context of the candidate countries. Likewise, the external authority of the European Commission on administrations has caused variable effects in Central Europe, because the construction of this public problem occurred in different periods and according to different modalities. In Poland and Hungary, countries that could rely on previous debates and nascent institutional reforms, priority was quickly given to a complete overhaul of the system, aiming to build an impartial and professional administration. In the former Czechoslovakia, the problem was initially approached in terms of the political purification of administrative personnel. In 1992 and 1997 respectively, Hungary and Poland adopted specific laws at a time when the subject was neglected by the media and public authorities in the Czech Lands. Whereas the Czech political and social actors were precociously involved in the problem of the ‘de-communisation’ of administrations, during the 1990s, the role and the organisation of the Central Government remained a neglected subject. This de-communisation allowed the problem to emerge in a scandalous light, which in turn triggered the emergence of the issue as a public problem. Nevertheless, the negative consequence of this triggering event was that it shifted the focus of the entire public debate to the question of political purification; while masking the serious problems of performance, training and autonomy that plague current post-Soviet administrations (Hadjiisky, 2004). The Czech Republic only adopted a Civil Service Law<sup>7</sup> in May 2002, following the complicated processes of agenda-setting and drafting.

To give an account of the role of the accession negotiations in this process, it is essential to elaborate on the wide range of actors in interaction (institutional and non-institutional), as well as on specific historical and social contexts that construct these interactions (Neumayer, 2002). The ‘models’ only function as long as they are considered legitimate and/or strategically useful to the social actors involved in defining what a State should be and represent. While remaining sensitive to the importance of social and historical representations attached to the institutions, it is necessary to pay particular attention to the discourses and the modes of explicit and implicit legitimisation or stigmatisation to which the ‘State’ has been subject during the process of reform.

## **I - The complicated agenda-setting of the central public administration reform.**

### **The current state of affairs in post-Soviet central administrations**

In order to understand the functioning of central administrations after the end of Sovietism, we first need to assess the *actual* sociological legacy of the central Soviet administration. In this field, executive inertia has produced a result that is much closer to the ‘liberal’ administrative model than would be expected from the image of the former Soviet bureaucracy. The Party-State, while officially relying on a strict hierarchical subordination

---

<sup>7</sup> Commonly named “state service act” (“zakon o statni sluzbe), this law details the status, the recruitment, promotion and payment conditions, the rights and duties of the civil servants and some sides of the general organisation of the central administrations. So we have chosen to translate its heading by “Civil Service Act”, the term “public service” being able to lend to a not very relevant confusion between the French and the Czech situations.

and on a centralised and unified system, produced a weak and fragmented administrative regime, removed from the image with which it is usually associated<sup>8</sup>.

The soviet Administration of the 1980s was *de facto* characterised by two main features: the statutory weakness of its civil servants and the prevalence of sectoral social logics over the coherence of central institutions.

This statutory weakness of the civil servants was one of the components of the power strategy of Soviet-type governments. Privileged insofar as belonging to the *nomenklatura*, civil servants could not, however, exercise the rights or duties provided by the law.<sup>9</sup> One of the characteristics of Soviet public administrations was the lack of a specific law on the civil service and its employees (Verheijen, 1999: 3). There was no specific legal status for civil servants that could have secured their political independence and their recruitment based on merit.

The prevalence of sectoral logics was neither expected nor desired during the establishment of Soviet regimes. It gradually came into being after de-Stalinisation. Due to the influence of the social sectors over state and partisan structures, which were expected to direct them, the Soviet State became, in its final historical period, the least autonomous sphere in state socialism (Stark & Bruszt, 1998). Ministerial departments were more closely linked to the social sectors – whose management was their responsibility – than with the other departments in the central government. Therefore, the Soviet Administration operated in a fragmented manner, divided into sectors. Inter-ministerial relationships were compartmentalised and there was little staff turnover. In the 1970s and 1980s, the system ended up relying on the considerable power left to the directors of different public institutions to manage their respective sectors.

As the disciplinary and nomenklatura departments were removed, the post-communist Czech administration became the by-product of this de-specified and sectorised post-Soviet administration. This is not the result of a series of reforms, but the legacy of the post-Soviet system. However, in practice, the heritage of this communist administration tends to favour a “substitute of the Anglo-Saxon model”, which limits the specificity of the civil service and resorts to flexible solutions, similar to the methods of private management (Kessler, 1996: 16). Nevertheless, contrary to the so-called ‘liberal’ system, wages remain unattractive and the qualification of civil servants generally insufficient.

Before the enactment of the new public administration law on 1 January 2004, the status of civil servants<sup>10</sup> was still governed by the General Labour Code. There was no centralised institution responsible for a staff policy or for training candidates for jobs in public administration. The recruitment and working conditions were not uniform: concretely, there

<sup>8</sup> For a stimulating study about the so-called “State bureaucracy” and its real functioning during the Soviet period, see Dubois, Lozac’h, Rowell (2005).

<sup>9</sup> There was one exception to that rule: members of the security forces were protected by a specific piece of legislation.

<sup>10</sup> There are 14 ministerial departments and 8 administrative state bodies in the Czech Republic. In 1998, these bodies employed just over 13,500 people. In total, the central public administration (including de-centralised administrations) employs over 130,000 people (final report from the Popular Education Fund for the Improvement of Public Administration, 1998).

were no common rules about the selection, recruitment, training or remuneration of employees.

In addition, Czech central administrations are characterised by a ‘sectorised’ management and by specialised working methods for each department; vestiges of the sectoral procedural methods of the former system. Difficulties in communication and co-operation between departments are constant (Drulak, 2002), to such an extent that they caused the creation of a frequently used neologism, *resortismus*, composed from the term, *resort*, which in Czech means, “administrative department”.

As they are under-qualified, underpaid, and lacking in initiative, civil servants are often easily corruptible. They depend on the political backing of the government for their recruitment and career. The Czech jurist Taisia Cebisova<sup>11</sup> calls to attention the concentration of discretionary power in the hands of the heads of departments. This phenomenon explains why subordinate employees often seek to obtain partisan patronage to ensure their recruitment, their promotion and the level of their premiums.<sup>12</sup>

### Reasons for a lasting reluctance

Nevertheless, public authorities continued to neglect the subject of central administrations during the initial years of Czech independence (1 January 1993) to the point of labelling their disregard as a ‘strategy of non reform’ (Hadjiisky, 2004).

The first public administration bill was developed from 1993-1994. It responded to the internal legal obligation imposed by the Constitution, effective 1 January 1993, which stated that the central administration, its individual bodies and its staff should be governed by law.<sup>13</sup> The authors of the 1993 Constitution referred several times to the 1920 Constitution. In the administrative field, this continuity was marked by the statement in the Constitution on the status of public law in central administrations. As in other fields, this restoring logic did not last after 1989. The contemporary Czech political class is divided on the role of the State in the new democracy, and on the nature of the democracy constructed by the government (Hadjiisky, 2001). Hence, a partial and varied reading of the constitutional text, produces some lasting conflicts on important points, such as the creation of a Senate, regional decentralisation, an ombudsman, and the status of state employees. The Public Administration Bill has been defended in the Chamber of Deputies by Jan Kalvoda, vice prime minister in charge of legislation and civil service, who was not a member of the ODS (Civic Democratic

<sup>11</sup> T. Cebisová, “Zakon o statni sluzbe. Jaky a proc?” [Civil Service Act. Which law and why?] *Parlamentni Zpravodaj*, 02/2000, pp. 4-5.

<sup>12</sup> Jirina Novakova, senior official responsible for the control of the administration, gives a harsh review of the central public administrations. She criticizes the “lack of unity in the organisation and work relationships” and the insufficient professional training. Moreover, she notes that, given the lack of human and organisational resources, public bodies delegate some important parts of their allocations (including drafting bills) to private agencies. Finally, she says that to improve the efficiency of the service it is necessary “to decrease the political dependence of the employees and to reach a certain degree of employment stability”. “Nekolik uvah nad navrhem sluzebniho zakona” [reflections on the Civil Service Bill], *Intergrace* 8/2001, p. 2.

<sup>13</sup> Article 79 of the Czech Republic Constitution, adopted on the 16 December 1992, states: “Ministries and other administrative agencies and their jurisdiction may be established only by law”; and that, “the legal status of government employees in ministries and other administrative agencies shall be defined by law.”

Party), but of the small ODA party (Civic Democratic Alliance).<sup>14</sup> This bill was never considered to be a priority; it was rejected during the first reading<sup>15</sup> and the reform was never placed on the agenda again.

There was no specific pressure – i.e. from academia, the media, or trade unions – on the governments to prioritise central administrations reform.

The main trade union for employees in public administration did not campaign for the adoption of a specific status for its members. During the negotiations, it was primarily concerned about ensuring equal social and trade union rights for civil servants guaranteed by the Labour Code.<sup>16</sup> This position most likely reflected the fears of its members in the face of anticipated staff changes, or even those of the heads of departments concerned with safeguarding their unrestricted control to manage the services and employees.

Additionally, some political and social interests hindered, in a discreet but efficient manner, a public law status concerning government employees from being put on the agenda. Ambivalence towards the independence of the administration is visible within the political parties. The system inherited from Sovietism left substantial room for political parties to interfere in the management of administrative staff. During the 1990s, the absence of a standard law, combined with strong ministerial autonomy, favoured a gradual ‘partisanisation’ of public administrations.

### **The European Commission’s role in the emergence of a public debate on central public administrations**

In this context, pre-accession negotiations were an important reason for the return to the agenda of central public administrations reform.

The chronology here is important. On the political and media scenes, the attention paid to the issue progressively increased with the annual publication (after 1996) of the Commission’s *Regular Reports* on the Czech Republic’s progress toward accession. The Reports of the European Commission (EC) have progressively become one effective instrument of the ‘internalisation’ of the EU, which had remained an external actor until then. The innovative character of these positions – which were precise, informed and related to fields previously considered within the sole scope of national sovereignty – had an impact on the legislative agenda. Through its physical presence from 1997, the EU became an integral part of the

<sup>14</sup> There were 14 deputies out of 200 in the Chamber of Deputies of the Civic Democratic Alliance (ODA). It was the smallest party of the coalition government. It joined with the ODS-KDS (76 deputies) and the Christian Democratic Union (KDU-CSL: 15 deputies).

<sup>15</sup> This bill was rejected on the grounds that the indications aiming to improve the quality of the services were not sufficient. Moreover, one could argue that the approval of the law might have been an obstacle for the reorganisation and the renewal of the administration. In particular, the text did not provide for a period of transition, which, in practical terms, involved the quasi-automatic renewal of the staff in place, without any training course or supplementary exams. Finally, additional expenditures (e.g. wages and pensions) had been neither calculated nor incorporated into the budget forecasts.

<sup>16</sup> The president of the Trade Union Confederation of Public Organisations, Alena Vondrova, often voiced strong concerns regarding the law. See: A. Vondrova, “Zakon o statni sluzbe dostatecne nesleduje moderni evropske trendy” [the Civil Service Act does not follow modern European trends in a satisfactory way], *Parlamentni Zpravodaj*, 4/2001, p.1.

debate in domestic Czech politics; the European Ambassador in Prague, Ramiro Ciprian, for example, have been regularly interviewed in order to clarify certain points in the *Report*. It is important, therefore, to note that the articles on central administrations appeared in the press not only during the parliamentary debates, but also, more significantly, in October and November, the months of the publication of the Annual Reports of the EC.

In 1997, the *Agenda 2000* had already presented central administrations reform as a fundamental one, in order to ensure effective separation between the public and private sectors. The latter was considered as an important precondition for the implementation of the rule of law and of a market economy. The European Commission argued for the adoption of an 'adequate legal basis for the Civil Service', the only thing able to 'ensure the role and the duties of the Civil Service'. The Commission warned the Czech government against the inaction that they felt was hardly justifiable: 'since 1990, the successive governments have not granted priority to the necessary reform and modernisation of the public administration. There has been nothing to show that this situation will change'.<sup>17</sup> Denouncing the 'excessive politicisation' of administrations, each year the Reports insisted on the importance for the Czech Republic to 'have a law on public administration', presented as 'essential to establish the independence, the professionalism and the stability' of the State administration.<sup>18</sup> The law should specify how it operates, particularly in order to limit corruption and partisan patronage. Each year the Reports have dedicated an entire column to the problem of corruption within the different state agencies. Within the framework of PHARE, some programmes were devoted to the training of administrative staff.

Besides the Regular Reports, the Commission had recourse to other means of influence. After the dissolution of the Office for Legislation and Public Administration by governmental decision in 1996, the Czech Republic no longer possessed a single body in charge of the co-ordination of administrative reform. Faced with this deficiency, the Delegation to the European Commission in Prague launched a project known as the 'improvement of the public administration' with the objective of re-initiating the programme PHARE, which was running out of steam after the dissolution of the Office. This project was entrusted to a Czech foundation, the Popular Education Fund, created in 1994 with the support of the European Commission. One of its objectives was to draw the decision makers' attention to the importance of the modernisation of central administrations at a time when, as the final report stated, 'reform was reduced to the creation of de-centralised territorial units of intermediary level' and neglected the central administrations.<sup>19</sup>

Thus, in the Czech case, the inertia of the national executive represented an opportunity that strengthened the role of European actors in the construction of central administrations reform as a primary public issue. The generally legitimate pressure from the EU encouraged the emergence of a public debate on how the Czech central state should function. Furthermore, this was in an ideological context that tended to render politically suspicious the use of positive arguments about the State administration.

<sup>17</sup> *Agenda 2000: Avis de la Commission sur la demande d'adhésion de la République tchèque à l'Union Européenne*, Bulletin de l'UE, suppl. 14/97, p. 84.

<sup>18</sup> European Commission, *Regular Report 2002 on the progress of the Czech Republic toward accession*, B-1, COM (2002) 700 final.

<sup>19</sup> Popular Education Fund, *op. cit.*



### The State at issue in the political discourse

As it began to appear in the media and on the political scene, the issue of central public administrations reform quickly developed in the form of a pronounced political cleavage in which “European” references were numerous and used in different ways.

The main right-wing party, the ODS, made anti-statism one of the cornerstones of its electoral platform. The electoral discourse of the party emphasises that “state power” has to be reduced to the ‘five accepted domains of the liberal era: foreign affairs, internal affairs, justice, defence, and finance’. The party opposes any “superfluous” regulation that could inhibit “the entrepreneurial spirit” and ‘the behaviour of the free market’.<sup>20</sup>

This type of discourse of limited state intervention is relatively recent in the Czech political tradition. The first Czechoslovak Republic (1918-1938) had developed a positive discourse about the state community and the mission of the public service, which was evident from the importance of civic education in political discourse and in the educational handbooks of the interwar years.

The ODS draws on references from the texts of the neoliberal, American economic trend, rather than from its national history.<sup>21</sup> The ODS programme of 1998 is quite clear about this foreign inspiration: the party presents itself as a ‘liberal-conservative party from the right’, drawing its inspiration from “the liberalism and the classic conservative ideas” in order to ‘create a new tradition’ for the right in the country. It says it always ‘knowingly’ went astray from the ‘traditions of the European centre-right, which was limited by its corporative, denominational or national definition’.<sup>22</sup> During the party conference entitled ‘A free space for free citizens’ (11 June 2000), the tone was particularly competitive: ‘the war for limiting the power of the State, as well as that of civil servants, continues’. In a parallel between the culture of bureaucracy and the European Union, typical of the political discourse of the ODS, the conclusions of the manifestation denounced ‘the desire of civil servants to increase their power’ which ‘is often hidden behind the words of the European Union’.

The type of criticism levelled against the State by the ODS received a great deal of support in the 1990s, which can be explained by the historical context of the Czech post-communist era. Administrative arbitrariness evokes the most familiar aspects of daily life during the communist era. More indirectly, criticisms of a despotic, omnipotent State resemble those that were made against the interwar Czechoslovak administration, which was inherited from the imperial administration of the Habsburg Empire. Moreover, the liberal-libertarian foundations that aim to increase individual autonomy are akin to those of some of the intellectuals associated with the underground dissidence of the 1970s. The members of this underground movement, who had turned away from Charter 77 during the 1980s, founded some important newspapers like the weekly *Respekt* and the daily *Lidove Noviny*. Despite their differences,

<sup>20</sup> Excerpts of the chapter, “A Cheap State”, from the electoral programme of the ODS, June 1998.

<sup>21</sup> Let us point out the importance of authors like Milton Friedman or Friedrich Hayek in the political and intellectual course of Václav Klaus, founder and first president of the ODS.

<sup>22</sup> Electoral programme of the ODS, 1998, *Head High*, “ODS: The Defence of Democracy and Freedom”.

these newspapers, along with the financial daily *Hospodarske Noviny*, have significantly supported liberal, anti-state thought on the Czech political and media scenes.

When the Czech Social Democratic Party (CSSD)<sup>23</sup> came to power in June 1998, it presented itself as a counter-model to the ODS.<sup>24</sup> It envisions a positive discourse concerning the State, including the welfare state. Its programme is inspired by ‘the humanist philosophy of Tomas Garrigue Masaryk’, Czechoslovakia’s first president (1918-1935). The party denies excessive devotion to the State, but it considers that ‘the self-regulating mechanisms of the market, ‘the invisible hand’, alone cannot create a society of freedom and justice’.<sup>25</sup> In its 2002 electoral programme,<sup>26</sup> the CSSD wanted ‘to enhance the prestige of the administration’ that is the citizens’ daily experience of the State’. To this extent, the party planned to ‘specify precise professional and moral criteria that will allow equal access to public administration and promote an ethos of service to the public and respect for human rights’. Additionally, it intended to grant tenure, raise wages and provide for social guarantees – all proposals to which the ODS was opposed. The party attempts to present a positive image of the State, while associating it with the idea of a public interest mission and linking its practice to the guarantee of constitutional civil rights.

### A polarised public debate with multiple historical connotations

At the end of the 1990s, the one fact that was unanimously agreed upon was the weak performance of Czech central administrations after 1989. As for the rest, there were highly divergent opinions on providing solutions.

Let us briefly summarise the arguments of the two sides of the dispute, which have crystallised on the question of the opportunity of a specific legal basis for civil servants.

For the supporters of a public law status, a model of bureaucracy with statutory specificity is a guarantee of administrative autonomy and of the equality of all before the law. In other words, the law, above all, ensures excellence, rather than the market and competition. In these instances, when theories inspired by the ‘New Public Management’ are mentioned, they are rejected in the name of the specificities of the State administration, its role under the law, and the risk that it may lose the values that are tied to State service, such as, ‘professional honour, ethics of public service and incorruptibility’.<sup>27</sup> Whether it is in the academic world or in the

<sup>23</sup> The Czech Social Democratic Party was rebuilt in December 1989 as the heir of the “historical” Social Democratic Party, which was banned in 1948 and survived in exile. Consequently, it is not a former communist party rebuilt under the guise of a Social Democratic Party, as was common in other Central and Eastern European countries. The old Czechoslovak Communist Party still exists; its name is now the Communist Party of Bohemia & Moravia.

<sup>24</sup> The Social Democratic Party programmes seem to provide answers to the ODS arguments that structure them in an inverse mirror-effect. The title of its electoral programme of June 2002, *Humanity against selfishness: prosperity for everybody*, is clearly reminiscent of the ODS programmes of 1992 and 1996, *Freedom and Prosperity*.

<sup>25</sup> These quotations are taken from: “Starting points of the long term programme of the Social Democratic Party (opening to new expectations – fidelity to the traditions)”, Prague, April 2001, whose writers are the deputies S. Gross, Z. Skromach and V. Spidla.

<sup>26</sup> Programme headline: *Humanity against selfishness – Prosperity for everybody*.

<sup>27</sup> T. Cebisova, *op. cit.*, pp. 4-5.

media, supporters of the law emphasise its expected benefits such as the integrity and the de-politicisation of civil servants.<sup>28</sup>

For the opponents of a public law status, the best way to attract qualified employees to the administration is economic rather than statutory. In short, it is advisable to place the civil servants in a competitive environment where recruitment remains open; thus, professional experience in the private sector is sought after. Some accept the idea of a specific law, provided that it presents only small deviations from the ordinary legislation. These groups estimate that – through the means of contesting the politicisation of administrations – there is a high risk of paralysing the executive, which in turn could allow a new administrative power, devoid of popular legitimacy, to replace the incumbent government. One part of this line of argument rests with the idea that Czech administrations have not yet been sufficiently improved or ‘purified’ in order to vote for a law in their favour.<sup>29</sup>

The daily *Lidove Noviny* was one of the proponents of an uncompromising argument on the issue,<sup>30</sup> publishing, for example, articles by political analyst Martin Weiss.<sup>31</sup> His articles systematically make an association between the state administration, bureaucratic arbitrariness, and communist ideology. In implicit terms, these texts recall the repulsion that the State administration inspired under the former Soviet regime. In an article published the day after the vote on the Public Administration Law, Weiss was concerned about the risk of the creation of an administrative clique; much more dangerous, he states, than the ‘risk of politicisation’, even if it is a ‘real’ one.<sup>32</sup>

The public debate oscillated between the fear of the arbitrariness and clientelism of an administration controlled by the political parties, and the fear of the transformation of the administration into a ‘caste’ which might limit the legitimate power of elected bodies.

After an overview of the main arguments, we can notice that the characteristics of this debate bring to mind the historical debates which led to the setting up of public administrations during the creation of modern European states.

Whether they are of governmental origin, the work of jurists, or of journalists, the majority of the articles and commentaries recall the existence of two classic models of administrative systems in Europe: ‘closed’ and ‘open’, which differentiate, in particular, the status of civil servants and the management of employees. In the ‘closed’ (or ‘career’) model, civil servants benefiting from a guaranteed public law status are generally granted tenure and their advancement is governed by internal channels. In the ‘open’ (or ‘employment’) model, the status of civil servants is under common law; their posts are well-paid, but are without guaranteed specific career advancement. In actuality, most current administrations in Member

<sup>28</sup> This point of view is taken, for example, by the journalists Lida Rakusanova and Jiri Krejcik in *With Bureaucracy Forever*, a documentary broadcast on public television, channel one during primetime (CTK, 20.06.2001).

<sup>29</sup> For example, the stances of the deputy (Freedom Union) and jurist Hana Marvanova, “Pro uspech reformy verejne spravy je nutny zakon o statni sluzbe”, *Parlamentni Zpravodaj*, 5, 2000.

<sup>30</sup> See for example Petr Fisher, “Pan urednik, pani urednice” [Mr & Mrs Civil Servant], *Lidove Noviny*, 13.03.2002.

<sup>31</sup> Martin Weiss is a well known journalist in the Czech Republic, whose articles have been published in *Respekt*, *Cesky Denik*, *Mlada Fronta Dnes* and *Lidove Noviny*. He was named spokesman of the Czech Republic embassy delegation to the UNO, in Washington in 1997-2000.

<sup>32</sup> Martin Weiss, “Pokus zastavit cas” [An attempt to stop time], *Lidove Noviny*, 16.3.2002.

States combine these two models, which as a result have become less efficient to describe them. They nevertheless remain interesting historical markers. In the manner of ideal types, these models were forged from different historical realities, and reflect the original divergences in the conception of the State between EU Member States. It bears reminding that for the ideal type of bureaucracy (linked to the career model), Max Weber drew inspiration from the administration set up by the Prussian state in the 19th century.<sup>33</sup> In spite of their shortcomings, the two above-mentioned models will be used in our analysis: as the relevant Czech actors have used them as references, these models are indispensable to understand the terms of the debate... and the terms of the law.

From a strictly historical point of view, Czech actors can trace back the legal-rational model of State administration to Czechoslovakian national traditions: the administration of the First Republic (1918-1938) had retained the legal and organisational principles of the Austro-Hungarian, which in turn had been inspired by the Prussian ones.

On the other hand, it is important to note the historical coincidence of the debates concerning state reform in the CEEC with theories of new public management. The Czech debate appeared within the context of the criticism of public monopolies and the ‘hypertrophy’ of the State. The promotion of the market and the postulate of the potential universality of private management methods (on which new public management theories are based), characterise the historical context that developed during the collapse of the communist system – and which followed it both westward, as well as to the east. The ODS, as explained above, has clearly supported these theories along with its anti-state discourse, which suited the post-soviet context.

These cross-references allow us to grasp the complexity and the political weight of the debate on public administrations, as well as the ambivalence (described hereafter) in the terms of the law that was eventually passed in 2002. Once again, this complexity shows that ‘democratic transition’ cannot be perceived as a mere restoration; it is rather a period of invention through hybridisation.

## **II - The new central public administration law: a European legislation?**

Contrary to the cabinets of Václav Klaus, the CSSD-dominated governments<sup>34</sup> made Europeanness and EU membership their main electoral issues. When the CSSD came to power, it gave priority to central public administrations reform. However, the resistance to this reform was such that, once again, only pressure from the EU – guardian and reference point in the process – allowed for the development and the vote for a public law status for civil servants.

### **A guardian confronted with reform blockage**

<sup>33</sup> For a contemporary defence of the Weberian inspiration, see E. Suleiman (2005).

<sup>34</sup> This pertains to, specifically, the Zeman (1998) and the Spidla (2002) governments. In 2002, Spidla’s government benefited from a narrow majority (101 seats out of 200) due to a coalition of the Christian Democrats (KDU-CSL) and the Freedom Union-Democratic Union (US-DEU). In August 2004, Gross (CSSD) was named prime minister after Spidla’s resignation, and was himself replaced in April 2005 by Jiri Paroubek.

The approval of a public administration law was claimed to be a priority by the social democratic government of Miloš Zeman, elected in June 1998. The programme of the new government drew inspiration from European recommendations: priority given to transparency in relationships with citizens; tackling corruption; ensuring lasting central public administration reform; and professionalism and independence. Concerning the first two issues, the Czech Republic quickly adopted new legal instruments.<sup>35</sup> Conversely, the reform of the status of government employees faced serious opposition.

The Zeman government (1998-2002) was in a fragile political situation which did not enable it to force the approval of the law. As a minority in the Parliament,<sup>36</sup> it owed its presence to an unprecedented agreement signed with the ODS, its main opponent. The ODS agreed not to submit a motion of censure against the government. In return, Klaus's party required to be consulted before the vote of any important governmental project. This situation allowed the ODS to permanently slow down the agenda-setting of the public administration law.

The intervention of the European Commission was particularly significant during this period. Even as the Czech government was tempted to neglect the issue, the Commission played the role of "guardian" in the process of placing the law on the agenda by continuing to draw attention to the subject.

Over the next few years, with the date of EU accession approaching, the media continued to focus increased attention on the evaluations in the Reports, particularly on the delay of the public administration law. The issue was covered in the general political sections of the daily newspapers, as this criticism was seen as the only element in the Report liable to delay the Czech Republic's entry into the EU.

In 2001, the issue caused a political controversy. The Social Democratic Party, the Coalition of Four and President Havel made it clear that they accepted the criticism as motivated; whereas Klaus accused the European Commission of not understanding the Czech situation. Klaus was blamed for wanting to keep an administrative system based on partisan patronage in preparation for a possible return to power. Some articles transformed this issue into a general problem and contributed to dramatise the situation. The publicist Jiri Pehe, former political advisor to President Havel, published a text in which he claimed that the conflict concerning the public administration law was a 'fundamental conflict about the nature of our democracy and about the question of knowing whether our country will effectively be, in 2004, one of those integrated into the EU'.<sup>37</sup> This was a long way from the attitude of general indifference prevailing in the 1990s.

### **The uses of an influence without a model**

---

<sup>35</sup> Concerning the defence of citizens' rights, an "Office of the Counsel for the Defence of Public Rights" [Ombudsman] was created in 1999. The Counsellor relies on a new piece of legislation, the 2001 law on "the defence of citizens vis-à-vis the offices and institutions of State administration". A code of procedure for administrative courts and a law containing the resolution of certain questions in the matter of jurisdiction (approved in March 2002) were effective as of 1<sup>st</sup> January 2003.

<sup>36</sup> Elected with 32.3% of the vote and with 74 deputies (out of 200), the Social Democratic Party was unable to form a parliamentary majority.

<sup>37</sup> J. Pehe, "Proc potrebujeeme zakon o statni sluzbe?" [Why do we need a public administration law?], *Hospodarske Noviny*, 19.11.2001.

The European Union has not only directed attention on this neglected issue: its presence (direct and indirect) in the debate also had the effect of legitimising a certain type of central public administration. In their content, proposals of the Regular Reports recommended the adoption of a public law status for central government employees, and an ‘adequate legal basis for the civil service’. While the usefulness of the law was challenged by parts of the right wing and the main trade union for civil servants, the Commission clearly ruled in favour of a revalorisation of the administration through the law.

If the EU’s power of influence over public administration reform is clearly noticeable in the Czech Republic, it is, indirectly, above all due to the manner with which it has been *used* by national actors. The latter had ample room to manoeuvre under the labelling of the European ‘model’. The Czech sources refer to the ‘recent trends of European administrations’ to present their arguments. While remarking that the majority of European States have mixed the two ‘career’ and ‘employment’ models (which do not exist in their original state), Czech jurists emphasise the diversity of administrative practices in Europe. The authors frequently defend the open nature of the Czech debate since ‘there is no single recipe’.<sup>38</sup>

In fact, Community actors did not establish a precise terminology in order to evaluate the progress of candidate countries towards an administration that met their expectations. In that field, the EU managed to exercise a power of influence, rather than that of injunction, which was more easily accepted since it gave the opportunity to national actors to use it in various manners. EU pressure in this domain was seen as important and was often prominent in the arguments in favour of a vote on the public administration law. Rather than being portrayed as overbearing, this pressure was used as a sort of ‘toolbox’, which allowed for modifying the variants according to the aspects of the law that were addressed.

In a national context marked by historical events, often seen as unfortunate, the Commission’s intervention, from the outside, has had the effect of relaunching the debate on the status of public administration on the basis of historically different, Western European ideas that are generally considered as positive. Until now, the main external points of reference were American or British (Thatcher) and anti-statist in nature. Thanks to this other European point of reference, certain arguments, which would have normally been interpreted as archaic, have begun to take on a new sense of ‘modernity’. Through its insistence on a vote on a law and the de-politicising of public administrations, the Commission strengthened the arguments in the debate that tended to favour the ‘return’ to civil servants-oriented administrations. Rather than associating the choice with the pre-war Czechoslovak administration – which was seen as too similar in spirit to the Austro-Hungarian Empire – the authors generally preferred to make reference to the European traditions of the EU, which allowed for the modernisation of the argument in favour of a public administration law. Intervention from the Commission allowed Czech actors to open up the debate in order to shift the focus from the perspectives of anticommunist and administrative ‘purification’, to readily making reference to foreign examples in the political and historical context of the former Eastern Europe.

At the governmental level, the support from the EU appears to have given Czech officials the latitude to loosely follow the recommendations of liberal inspiration proposed by other international institutions, like the OECD. This point is illustrated by a comparative study of two preparatory reports of the law. The first report, titled ‘Generic Model for the Organisation

---

<sup>38</sup> Taisia Cebisova, “Uprava statni sluzby v soudobych demokraciich” [The development of state administration in contemporary democracies], *Parlamentni Zpravodaj*, 4/2001, p. 1.

of Ministers in the Czech Republic’,<sup>39</sup> is the product of an expert appraisal published by the SIGMA agency within the framework of the PHARE programme (‘Strengthening the administrative and institutional capacities in order to implement the *acquis communautaire*’). SIGMA<sup>40</sup> was created in 1992 by the OECD and the PHARE programme (EU). The second report, ‘Conception of Modernisation of the Central State Administration Considering the Clerk Status and Structure of Administration Authorities’,<sup>41</sup> is a synthesis produced by the Czech ministerial services in charge of the administrative reform<sup>42</sup> that was elevated to the status of an official document for the reform on 20 June 2001.

Between the two texts, it appears that the official synthesis report offered more possibilities. For example, both reports are representative of the ‘current European trend’ of separating the functions of conception and co-ordination – which are left to the responsibility of ministries – from those of application or service. Staffan Synnerström, director of SIGMA and co-ordinator of the expertise report, proposed a single solution: independent agencies. The ministerial report suggested three ways to transfer responsibilities: to de-centralised territorial units; to de-concentrated administrative units; and to agencies. It should be noted that the “necessity” of dividing conception and execution was not questioned<sup>43</sup> but a degree of leeway is reintroduced in the ministerial synthesis document. Moreover the SIGMA report repeatedly mentioned the divergence of the options chosen by the government in its bill.

Among the requirements induced by ‘recent European trends’, the ministerial report recommended: strengthening the means of horizontal co-ordination between ministers; consolidating the audit with external inspection; and the application of ‘management’ methods, which included the simplification of hierarchical levels and objective organisation. These recommendations – with the exception of the latter – were included in the law.

In the end, the bill of the Zeman government was only partially inspired by the principles of the New Public Management’.

### **The new law on public administration (2002)**

The text which was finally approved<sup>44</sup> is a testimony to the clash of doctrines and interests that occurred during the process. The career system model that prevailed at the time of writing remains one of the main foundations of the law, but important changes were introduced by parliamentary amendments.

<sup>39</sup> *Generický model pro organizaci ministerstev České republiky.*

<sup>40</sup> Support for Improvement in Governance and Management in Central and Eastern European Countries

<sup>41</sup> *Koncepce modernizace ustredni statni spravy se zvlastnim prihlednutim k systemizaci a organizacnimu usporadani spravnich uradu.* At the time of the reform, these texts could be consulted on the official web site of the Czech Ministry of the Interior at <http://www.mvrc.cz/reforma/moderniz>.

<sup>42</sup> This concerned the Department for Public Administration Reform within the Ministry of the Interior in collaboration with the Department of Public Administration within the Ministry of Justice.

<sup>43</sup> This distinction between the tasks of conception and of execution was gradually introduced in the UK after the 1968 Fulton Report. It appeared in the works of the *Efficiency Unit*, created by Thatcher’s government in 1979, and again in the *Next Steps* Report (1988), which proposed the creation of independent agencies. This system was also adopted in mainland Europe, especially in Spain, the Netherlands and Denmark (F. Dreyfus, 2000, pp. 249-50).

<sup>44</sup> The law “on the service of State employees in administrative bodies and on the remuneration of these and other employees in administrative services”, was published on 28 May 2002.

In its initial version, the law provided for the appointment of civil servants to permanent posts after five years of employment and after passing an examination. The recruitment of employees coming from the private sector was not particularly facilitated. Having anticipated resistance to granting tenure, the government introduced a change contrasting with the classic career model: civil servants could be dismissed after two negative evaluations.

Several provisions are inspired by this model. First of all, for example, the law generalises recruitment with open competitions following public advertising. Secondly, candidacy requirements are sufficiently general so as to ensure equal access to public employment.

Recruitment operates according to a rather lengthy procedure, which enhances merit-based selection. The process takes place in three stages of local open competition. After a first exam before a collegiate committee, which classifies the candidates into categories, the selected individuals undergo twelve months of training in the recruiting department. They are then given a second, 'administrative exam', which includes both an oral and a written section. If the candidate is successful, they are entitled to civil servant status and will be given a post when it becomes available.

An Institute of State Administration was established, responsible for continuous training during the course of a career. Furthermore, advancement was to take into consideration a combination of seniority and merit.

The status of civil servants is extremely unified compared to existing practices. Until now, the diversity of contracts and recruitment modalities prevailed from one ministry to the next. Moreover, job descriptions, assignments, and remunerations were also inconsistent. The new law establishes a standardised classification of civil service positions, with ranks, salary regulations, and premiums that are valid in all sectors. It also codifies the procedures of remuneration and of advancement.

By the legal definition of their rights and duties, government employees now come under the authority of a specific status. Civil servants must take an oath of fidelity to the State when they assume their post. They must comply with a code of discipline,<sup>45</sup> discretion, fairness and integrity.<sup>46</sup> In theory, the law forbids them to have other sources of income, and they cannot be members of other management or supervisory bodies of profit-making organisations.

The main limitations concern senior officials, who are no longer allowed to hold any partisan position, and do not have the right to strike.<sup>47</sup> In the event of a resignation from an administrative post, there is a period of two years during which the employee is not allowed to work in a position in the private sector that might relate to their former post. Once again,

---

<sup>45</sup> However, the obligation to obey is not absolute: if an order appears to be contrary to the law, the civil servant is obligated to inform their administrative (and/or) political superiors, i.e. the DG or a minister. If no action is taken, the civil servant has the right to demand that the dispute be indicated on their personal record.

<sup>46</sup> A Code of Ethics for officials (adopted in 2001) preceded the law, with provisions on the obligations, rights and fundamental duties of civil servants.

<sup>47</sup> Civil servants can be in trade unions and elect counsellors to negotiate the organisation and the working conditions of the service; they can obtain available funds to achieve their trade union tasks. The trade unions are represented within the consultative bodies of the Directorate-General.



present among other factors in this domain is the pressure from the EU in tackling corruption and insider trading within the ranks of administrations.

As for compensation, the status of State employees includes a number of social advantages. They are entitled to five weeks paid holiday, whereas the legal period in the Czech Republic is four weeks. Moreover, a retirement premium is provided to employees who have served for at least five years.

In this standardisation of procedures, the law establishes a notable innovation: the position of Directorate-General (DG), with extended responsibilities, including the inspection of departments and the harmonisation of staff policies. The Director-General and their assistant are appointed or discharged by the President of the Republic acting on government proposal. In accordance with requests emanating from the departments, the Directorate, along with the accountant general, develops a centralised forward planning of posts and remunerations. The final decision goes to the government in the drafting of the budget. As supreme authority of the central administrations, the Director-General is present in all stages of the control and co-ordination of remits and services. The Director-General is assisted by a Secretary-General, who is appointed by the DG in accordance with the needs of the respective ministries.

These provisions tend to establish a system of the classic career model and a bureaucratic and centralised organisation. Other aspects adhering to this system include: the insistence on recruitment based on merit and professionalism; an oath of office; the separation of the political and administrative systems; the provisions concerning the integrity of civil servants and their specific status; as well as the centralised and uniform organisation of departments.

On the other hand, some of the provisions contradict this trend, which inevitably leads to a hybrid system, which attests to the debates and conflicts which have affected the drafting process.

The decision not to grant tenure to government employees is the most significant change in relation to the initial bill. This came into effect in 2002 after the submission of a parliamentary amendment. The balance of the parliamentary forces was against the Social Democratic Party: the ODS (63 deputies) and the Communist Party (24 deputies) were against the project. Initially, the Coalition of Four (liberal centrist)<sup>48</sup> was not in favour, although it changed its mind under the pressure of its largest party, the Christian Democratic Union (20 deputies). This party, which was established during the interwar years, was quickly won over by the idea of a status securing the competence and the de-politicisation of the central administrations. Nevertheless, the Coalition of Four voted the law under the condition of the withdrawal of the granting of tenure, which was deemed irresponsible, arbitrary and archaic by these political parties, since it was considered that the civil servant could not be subjected to proper controls.

In the end, non-tenured State employees are recruited for an 'open-ended service' (*služba na dobu neurčitou*, art 29-1).<sup>49</sup> Civil servants can be dismissed for professional inadequacy noted in a poor appraisal (two consecutive negative service reports) and also through departmental

<sup>48</sup> The Coalition of Four included: the Christian Democratic Union, present in the House of Representatives and in the Senate; the Union for Freedom (the same); the Civic Alliance (in the Senate); and the Democratic Union (in the Senate).

<sup>49</sup> The Czech word for 'service' [*služba*] is different from 'contract' [*smlouva*]. Here, it refers to an open-ended service, different from the open-ended contract used in the private sector.

reorganisation (which is, however, unusual in European public employment). In this instance, civil servants have an interval of twelve months to look for an equivalent position after which they lose their state employee status. For positions lower in the hierarchy, the restructuring of departments can result in an immediate dismissal, without a twelve-month interval, after an advance notice of two months.

Additionally, these amendments have facilitated the opening of the recruitment system to candidates from other administrations or the private sector. Candidates having worked for at least three years in a related field, but in the private sector or a non-profit organisation, are exempt from both the initial stage in the selection process and from the training period, and they can proceed directly to the administrative exam. The same requirements exist for territorial administration employees coming from a similar field of service. Despite its complexity, the system of recruitment is intended to be relatively open.<sup>50</sup>

The two connected problems of sectorisation (the famous *resortismus*) and of the power wielded by the heads of departments have not really been solved. The department and the head of the department remain the bases of the system whatever the remits given to the Directorate-General. The modalities of recruitment are explicit on that point. If the law generalises open competition, it also, at the same time, confirms its 'sectorised' nature. In the recruiting committees, the members of the ministry, or even department, concerned are the majority. For example, the first exam is an oral interview primarily concerning questions linked to the department. Secondly, the objective of the training is to prepare the candidate for working in a given ministerial area, and the State exam at the end of training is organised at the ministerial level and concerns the capacities of the candidate in the designated position.<sup>51</sup> Furthermore, the appointment procedure for filling available posts gives priority to the employees and the trainees in the same sector of service. Officials coming from other departments can only run as candidates if there is a second call for applications.

The new Directorate-General is meant to make up for the 'sectorised' aspect of this recruitment. The fact remains that the spirit of the law implies one specialised administration per sector. According to a similar system in Germany, ministerial autonomy and the concrete preparation to the available post prevail.<sup>52</sup> This type of system favours officials who are specialised in one sector. It discourages the generalised training of civil servants and the inter-ministerial circulation of staff.

The law safeguards discretionary power for the heads of the ministerial departments. Although in many aspects the law protects civil servants against the risk of arbitrariness,<sup>53</sup> it also preserves a significant degree of control and an instrument of pressure for the department's heads thanks to the modalities of recruitment and appraisal. The appraisal reports are prepared every trimester by the immediate superior. For example, the promotion of civil servants and their career are dependent upon the reports' suggestions of continuous

<sup>50</sup> This openness was restricted during the transition period between 1 January 2004 and 31 December 2006, since specific provisions give priority to the employees with more years of seniority – especially the senior officials. The opening of the private sector was not given priority during this period.

<sup>51</sup> The law also leaves the recruiting services important room for manoeuvring to organise open competitions, with one exception: who was to be given the authority to define the content of the open competitions was not specified, although it would most likely have been the recruiting department.

<sup>52</sup> The three-stage recruitment process borrows the principle of the double exam in conjunction with ministerial training, even if it is considerably simplified and unified.

<sup>53</sup> It provided, for instance, the possibility to sue the employer service for discrimination in ordinary courts.

training. They can also justify their dismissals for unsatisfactory work. Contrary to what is said to be one of its main objectives, the law does not guarantee the termination of the practices of personal and/or political preferences that currently exist.

## Conclusions

The constant pressure from the European Commission on the Czech Republic since its official application to the European Union in January 1996 played a crucial role in the reform process, helped to stimulate an important debate on the nature of the central public administrations, and influenced the outcome of the legislative process and the vote on a public law status for State employees. This is an example of the role played by an international actor in a process of reform that has traditionally been solely within the domain of national sovereignty.

However, it would be wrong to deduce that the public law status of civil servants is only the result of external pressure, exogenous to national history. Our analysis reveals the limits of such a hypothesis, which often underestimates the importance of the interactions between international and domestic actors. 'National' actors appeal to 'European actors' in many ways according to their interests, their frames of interpretation, and relevant historical national and international precedents. Europe does not necessarily mean European Union in this context, and there are examples of some EU member countries mobilised *against* European Commission recommendations. Conversely, full comprehension of the national context allows for understanding the possibly adjusted aspects of the European 'model'. Such an analysis shows that in the specific post-Soviet context the EU can represent and act as an advocate of State re-bureaucratisation, while also appearing (in the Western European Member States) as an actor of its own liberalisation.

In the Czech case, the influence of the European Commission has allowed for the re-legitimisation of the partial return to a national tradition of administration in the bureaucratic style; whereas, previously, it was associated with the Soviet administration because the differences between the bureaucratic and the Soviet models (i.e. autonomy versus the statutory politicisation of civil servants) have been overlooked as certain objective points converge between the legacy of Sovietism and the neoliberal style of administration. In this context, intervention by the EU – far from being in line with the theme of 'less State' – has contrarily favoured the reaffirmation of the statutory specificity of public administration. Nevertheless, Parliamentary debates have shown the strength of liberal and neoliberal ideas in the Czech Republic. These ideas are found in the text of the amendments, without which the law would not have been passed, as well as in the constant opposition of the leading opposition party, the ODS, wielding the Sword of Damocles over legislation.

Finally, in a case where the EU intervenes in a domain that was initially excluded from accession negotiations (and where it is moreover unable to offer an explicit model of reform), its tangible influence depends on the possibilities of re-appropriating the reform models that it advocates by the political and social actors involved. After all, these re-appropriations are themselves conditioned by the internal dynamics of national historical contexts.

Since the 2004 and 2007 enlargements, the problem has been displaced, but it confirms the role of national actors in the EU's power of influence. The current issue is not to have these laws voted, but effectively applied: in the Czech Republic, like in other countries of Central Europe, these laws, voted during the pre-accession process, have still not fully come into

force. The political debate is thus far from over. Some Czech deputies from the Green party and the Popular party<sup>54</sup> have suggested that the vote was only meant to satisfy the EC, but that there was no actual intention of implementing the reforms.

Indeed, not only was there a long scheduled wait from the start (entry into force: 1 January 2004, planned application after a transition period: 1 January 2007), the effective enforcement of the legislative text kept being postponed.<sup>55</sup> The election of Václav Klaus as President in March 2003 and the victory, even partial, of the ODS in the legislative elections of June 2006 are obviously not unrelated to this situation.

This further confirms that there is a principle of interaction between Community pressure and internal political will, governing the placement of administrative reforms on the States' agendas, be they candidates to accession or EU members. In lieu of an administrative reform fully completed following the EC's pressure, there has been, since the Czech Republic accessed the EU, a re-nationalisation of the agenda and the debates which favoured successive postponements. The issue here has shifted and now concerns the very relative capacity of Community authorities to sustain the pressure applied during the pre-accession period once the candidate countries have accessed the EU.

---

<sup>54</sup> The Green deputies and some Popular party deputies were the only ones to vote against postponing the law's application. This issue has been one of their favourite political themes in the past few years.

<sup>55</sup> The law's entry into force, initially scheduled for 1 January 2007, was repeatedly postponed by the Chamber of deputies several times, for the same budgetary reasons that the government argued (enforcing the law will indeed require significant wage upgrade). The latest vote to date, on 8 November 2006, postponed the entry into force to 1 January 2009.

## References

(Official documentation of the EU and the Czech sources detailed in the footnotes)

- Claisse A., Meininger M.-C., *Fonctions publiques en Europe*, Montchrestien, 1994.
- Dimitrova Antoaneta L., “Europeanization and Civil Service Reform in Central and Eastern Europe” in Franck Schimmelfennig, Ulrich Sedelmeier, dirs., *The Europeanisation of Central and Eastern Europe*, Cornell University Press, 2005, p. 71-90.
- Dreyfus F., *L’invention de la bureaucratie. Servir l’Etat en France, en Grande-Bretagne et aux Etats-Unis (VIIIème-XXème siècle)*, Paris, La Découverte, 2000.
- Drulák P., dir., *Česká administrativa v procesu přípravy na vstup do EU* [Czech administration in the process of preparation to accessing the European Union], Report from the Institute of International Relations, Prague, May 2002.
- Drulák P., J. Česal, S. Hampl, “Interactions and identities of Czech civil servants on their way to the EU”, *Journal of European Public Policy*, August 2003, p. 637-654.
- Dubois V., Lozac’h V., Rowell J., “Jeux bureaucratiques en régime communiste”, *Sociétés contemporaines*, 57, 2005.
- Grabbe H., “How does Europeanization affect Central and East European governance? Conditionality, Diffusion and Diversity”, *Journal of European Public Policy*, 8 (6), December 2001, p.1013-1031.
- Goetz K.H., “European integration and national executives: a cause in search of an effect?” *West European Politics*, 2000, 23 (4).
- Hadjiisky M., “The Failure of Participatory Democracy in the Czech Republic”, *West European Politics*, 24 (3), July 2001, p.43-64.
- Hadjiisky M., Démocratiser un système administratif. Les paradoxes de la réforme des administrations publiques centrales dans la République tchèque post-communiste », in F. Dreyfus (dir.) *Les administrations publiques dans les transitions démocratiques*, Paris, Publications de la Sorbonne, 2004, p.91-138.
- Hadjiisky M., « Européanisation et réforme de l’Etat. L’influence de l’Union européenne sur la réforme des administrations publiques centrales tchèques (1993-2004) », in O. Baisnée, R. Pasquier, dirs., *L’Europe telle qu’elle se fait. Européanisation et sociétés politiques nationales*, Paris, CNRS Editions, 2007, p.167-193.
- Kessler M.-C., « Modes et modèles de transformation de la gestion publique », *Politiques et management public*, 14 (1), mars 1996.

Lippert B., Umbach G., Wessels W., “Europeanization of central and eastern European executives: EU membership negotiations as a shaping power” in *Journal of European Public Policy*, 8 (6), December 2001, p.980-1012.

Neumayer L., *L'enjeu européen dans les transformations postcommunistes : Hongrie, Pologne, République tchèque : 1989-2004*, Paris, Belin, 2006

Radaelli C. M., “Whither Europeanization? Concept stretching and substantive change”, *European Integration online Papers*, 4 (8), 2000. <http://eiop.or.at/eiop/texte/2000-008a.htm>

Stark D.& Bruszt L., *Post-Socialist Pathways. Transforming Politics and Property in East-Central Europe*, Cambridge, Cambridge University Press, 1998.

Suleiman E., *Dismantling Democratic States*, Princeton University Press, 2005.

Verheijen T., “Context and Structure” in T. Verheijen (ed.), *Civil Service Systems in Central and Eastern Europe*, Cheltenham, UK, Northampton, USA, Edward Elgar, 1999.