

# PUBLIC SECTOR REFORM IN HUNGARY AND ITS FINANCIAL: RAILWAYS?\*

*Ferenc Simó*<sup>2</sup>

*Herwig C.H. Hofmann and Alexander H. Türk*<sup>3</sup> argue that “the development towards today’s system of integrated administration of the EU has been defined through the evolution of legal, political and administrative conditions of administering joint policies. Legal problems of an integrated administration exist against the background of the transformation of both the EU Member States and the E(E)C and EU in the process of European integration.<sup>4</sup>”. Thus, one can claim that cultural, legal, historical and social are all identified as “modifiers” in the way of integrated administrative conditions. In the case of Hungary, it is also crucial to explore the function of the Hungarian administration and its efficiency, since its influence as one of the regulatory bodies in the public sector can undermine the attempt to implement new public management style reforms.

I also argue that centralization of power (especially in Hungary) is against the separation of powers and it allows for the emergence of too much regulatory power centralized. Moreover, it may lead to the creation of obstacles for the involvement of the private sector, and as a consequence, it may generate more administrative power without being cost effective and fairness of competition.

## Levels of administration in Hungary

In order to offer a wider picture for understanding reforms and the urgent needs of them, one needs to analyze the structure of administration as well. Even its complexity may seem suggestive, since I argue that the future of new management may hang on a balance by the existence of over-regulation in the case of Hungary.

As a start Hungary is often declared to be a unitary, parliamentary republic. Its executive branch is divided into three levels. As the first level, the Hungarian central government subsystem has divisions of ministries, the number of which ranged between 12 and 18 between 1990 and 2010; at the main core of which lied the Prime Minister’s Office (PMO) with the head of the Cabinet, the Prime Minister, as its peak. Ministries are predominantly responsible for policy-making while most of the

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\* DOI 10.21868/PGnG.2017.1.5.

<sup>1</sup>The paper was created within the framework of programmes aiming the increasing of quality of lawyer education (IX - 14/6/2/2017. contract number).

<sup>2</sup>*Ferenc Simó*, PhD Student, Géza Marton Doctoral School of Legal Studies, University of Debrecen

<sup>3</sup>Herwig C.H. Hofmann and Alexander H. Türk (2009). *Legal Challenges in EU Administrative Law: Towards an Integrated Administration*. London: Edgar Elgar publication. pp. 1-2

<sup>4</sup>*Ibid.* pp. 1-2.

implementation tasks – especially those with a territorial dimension – are carried out by agencies.<sup>5</sup>

At the second, sub-ministerial level, one finds a number of agencies – public organizations with nation-wide competence supervised by a ministry or the Cabinet. Several of these central agencies have field offices on county or even lower (local) administrative levels, employing a significant share of civil servants. Between 1990 and 2006 the proliferation of these agencies was a regular trend in Hungary. During this period there were various organizations possibly regarded as agencies, but there were a lack of overarching legal framework for agency type organizations.<sup>6</sup> That is to say, not until the very beginning of the 21th century, when in 2006 and as part of its attempts to (re)gain control over government apparatuses the second Gyurcsány cabinet attempted to launch a law regulating the basic structural features of government organizations.

At the third level of administration we can find the local governments. The local government system is a two-tier one involving, at the upper tier, nineteen counties and the capital city Budapest, and, at the lower, municipal tier almost 3200 local governments governed by elected councils.

Since 2011 a sweeping wave of centralization reached the local government system, as a result of which much of the health and education services having been taken over by the central government.

Some relevant alterations can be identified from 2010s with the inauguration of the second Orbán Cabinet, which brought a new policy on administrative reform and on cornerstones of the state structure. The emergence of this impressive change was driven by a quest to further enhance the political control of administrative apparatuses, and, unlike previous attempts, was supported by a two-third majority enabling the Cabinet.

Moreover, it is essential to note that similar attempts could already be observed in the previous years. Especially, the second Gyurcsány Cabinet took a number of attempts at strengthening central political control over apparatuses and policies. However these efforts, just like most of the above mentioned cases, were doomed to fail because of the lack of political potency required to break through the built-in barriers against major change.<sup>7</sup>

The wide-scope structural changes having taken place in 2010-2011 might best be understood in a broader framework characterized by a decisive and successful endeavor to get rid of the extremely status quo oriented system of checks and balances, and to strengthen hierarchical and political control in all spheres and segments of state organization.

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<sup>5</sup> Hajnal, György (2013). *Public Sector Reform in Hungary: Views and Experiences from Senior Executives Country Report* as part of the COCOPS Research Project May 2013, pp. 7-8

<sup>6</sup> *Ibid.* pp. 7-8

<sup>7</sup> *Ibid.* pp. 8-10

Several of the reform measures necessitated fundamental constitutional changes or, at least, involved the adoption by the governing parties with a two-third majority. As a consequence, the mentioned series of reforms resulted, in December 2011, in the adoption of a completely new constitution, which involves a range of elements partly extending even beyond the executive branch. Firstly, the ministerial structures underwent far-reaching structural changes, as a result of which eight integrated ‘superministries’ emerged. At the same time the PMO was re-structured into a Ministry of Public Administration and Justice (MPAJ) with a broader task portfolio. Thus, the Prime Minister’s Office came into existence again, assuming control over a number of politically highly salient areas. The regional (middle-tier) branches of agencies have been integrated to the 20 county level (so-called) ‘Government Offices’ strictly controlled directed by the government and headed by political appointees, and, according to the new Local Government Act No. CLXXXIX of 2011 (in effect from 2013) local governments’ scope of duties and competencies are dramatically reduced, leading to a kind of recentralization of power, so local governments do not have a broader set of responsibility for public service provision tasks any longer. The policy to cut down on the responsibilities of local governments may bring up certain difficulties in connection with projects as complex as the development of a national railway system.

### **The case of railways in Hungary: the (pre-existing) regulatory body**

The independent railway regulatory body (Hungarian Rail Office) was set up in 2006. In 2008, the tasks and responsibilities of the regulatory body were transferred to the National Transport Authority. Regulatory and safety issues are handled in one organization but independently from each other.<sup>8</sup>

#### ***Unit for Railway Regulation***

The regulation of the railway market was the duty of the Unit for Railway Regulation within the Central Office<sup>9</sup> where the legislative basis is given by the Government Decree No. 263/2006 on National Transport Authority and the Act on Railway Transport No. CLXXXIII of 2005. The main tasks and responsibilities of the regulatory body are complex, since it provides licences for regional suburban and local activities.<sup>10</sup>

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<sup>8</sup>National Transport Authority (2017). <http://www.nkh.gov.hu/web/english/railway>[accessed November 25, 2017]

<sup>9</sup> The Central Office was the central body of National Transport Authority (see § 2(3) of Government Decree No. 263/2006)

<sup>10</sup>Ibid..

**Table 1****Main tasks and responsibilities of the regulatory body**

<b>1. Licensing</b>	The Unit for Railway Regulation (in the following: the Unit or the authority) issued licenses that were valid in the European Economic Area, and licences for regional suburban and local activities.
<b>2. Market monitoring</b>	In the framework market monitoring activity the Unit permanently checked whether infrastructure managers, railway undertakings, and the capacity allocation body complied with the railway legislation in force. The aim was to discover the non-compliant operations. Within the market monitoring, the Unit also collected data on the railway market and analyze market developments. The authority participated in the EU-wide data collection of the Rail Market Monitoring Scheme and in the market monitoring activity of Independent Regulators' Group – Rail (IRG-Rail).
<b>3. Market supervision</b>	The market supervision tasks consisted of the enforcement of compliant market behaviour of infrastructure managers, railway undertakings and the capacity allocation body. The supervision of non-discriminatory access, the content of the Network Statements and track access contracts and the checking of the charge setting, in particular regarding the costs of the infrastructure managers were in the focus of our market supervision activity.
<b>4. Enforcement of rail passengers' rights</b>	The activity in the field of enforcement of passengers' rights was to check the compliance with Regulation 1371/2007/EC, national legislation and the General Terms and Conditions of Carriage of the railway undertakings. The Unit was also responsible for the investigation of complaints had been lodged by rail passengers.

*Source:* Author, based on <http://www.nkh.gov.hu/web/english/railway>

***Department for Railways***

The Department of Railways was the body within the Roads, Railways and Shipping Authority of the National Transport Authority responsible for administrative issues. The mission of the department was to give insurance through its administrative activities with meeting the requirements/acts/regulations set up by the transport policy of the EU and Hungary as well. Its aims also include many-folded contributions to the improvement of efficiency and traffic safety of the transport infrastructure.<sup>11</sup>

As far as the function of the departmentis concerned, one can state that this body functioned both as a regulatory and an administrative body (despite the fact that the 'official' regulatory body is the Unit for Railway Regulation below). In the light of this,

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<sup>11</sup>Ibid.

I argue that it is necessary though, the more administrative functions are given, the more problems/obstacles may arise in connection with the involvement of private interests, not to mention its anti-competitive nature as well. These statement, I assume, seem true in the case of Hungary, moreover, it looks to follow the same direction, too.

The department provided technical supervision of railways at first instance level is performed by the Department for Railways of the Roads, Railways and Shipping Authority, and gave administrative assistance through the country the licensing of railway track networks of national, regional, suburban and local relevance and private railway tracks connected to them.<sup>12</sup>

This body had a role as well as a maker of proposals on introduction and amendment of regulations, rules and technical specifications, and, it participated in their elaboration, determined strategies, guidelines and requirements relating to the curriculum and further professional requirements for education and training courses of the railway personnel. It also approved internal instructions of railway companies on education and training of railway technical personnel and on activities related to the safety of railway traffic, supervised and controlled training and testing of locomotive drivers and of the personnel engaged in professions related to safety of railway transport.<sup>13</sup>

### *Does not exist anymore...*

The National Transport Authority has ceased to exist from 1 January 2017, as a result of Government Decree No. 382/2016 on the designation of bodies carrying out administrative duties in connection with transport management tasks. The Authority has been succeeded by the Ministry of National Development. That means that an independent regulatory body in the field of railways does not operate anymore in Hungary, not even in a formal sense.

### **Railway development plans in Hungary in 2016**

The urgent need to develop the means of transportation, especially on a regional level, is a fact, and there are not too many nay-sayers to reject the idea of it. In January of 2016, a total sum of HUF 1100 billion was declared to be spent on Hungarian transport development. It was stated by the government that 2016 will see the beginning of 1100 billion forints (EUR 3.5bn) of investment in transport throughout Hungary, 670 billion (EUR 2.1bn) of which will already be spent in 2016”.

It was announced as well that the development of some 300 kilometres of road and 370 kilometres of railway would begin next year at a cost of 520 billion forints (EUR 1.65bn) and 600 billion forints (EUR 1.9bn), respectively,. Also, it was mentioned that the government was planning to spend HUF 2600 to 2800 billion (EUR 8.2-8.9bn) on transport development by 2020. One must not fail to remember that the difficulties of the sector of public transport might have started as early as the mid 1960s, and this sector was always

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<sup>12</sup>Ibid.

<sup>13</sup> Ibid.

seen as a solely public matter governed by the Hungarian authorities on different level. According to the assessment of the Minister of State, the transport sector had an outstanding year in 2015. The drawdown of the transport investments budget of approximately HUF 2 100 billion available for the 2007 2013 EU planning period is expected to be 100 percent.<sup>14</sup> Some 853 kilometres of new road has been constructed and more than 2800 kilometres of road has been renewed using both domestic and EU funding since 2007, 63 kilometres of new motorway were delivered in 2015, as well as the section of the M43 between Makó and the national border and the section of the M85 between Győr and Csorna. Some 70 kilometres of bypass roads have been completed, such as in Győr, Kecskemét, Mórahalom and Nyíregyháza. Almost 300 kilometres of main road surface has been reinforced. The Minister of State emphasized the fact that the first phase of the South Balaton renovation project, designed to improve the approach to Lake Balaton by rail, was completed last year and work on the second phase has already started. The modernisation of the railway line up to Püspökladány has been completed and is continuing up to the Debrecen-Apafa stations, too.

Source: <http://www.kormany.hu/en/ministry-of-national-development/news/huf-1100-billion-to-be-spent-on-hungarian-transport-development> [accessed November 25, 2017]

## Conclusion

I firmly state that in the case of Hungary, it also vital to re-investigate the function of the Hungarian administration and its efficiency, since its influence as one of the regulatory bodies in the public sector seems to undermine the attempt to realize new public management style reforms. I also argue that centralization of power (especially in Hungary) is against the separation of powers and it allows for the emergence of too much regulatory power centralized. In the case of railways, the involvement of the state is a must, since it is unquestionably related to public interest by its virtue, but the measure of involvement by regulatory bodies (administrative bodies) needs revision, especially in Hungary, where the cooperation of public and private sector is jeopardized by mistrust.

It is evidently seen that the cooperation of public and private sectors may be destabilized by the fact that, for example, citizen participation, social cohesion and internal bureaucracy reduction are all viewed not to have improved, or rather to gone further from their targeted aims. These issues appear relevant, since the obstruction built in the system by using too much bureaucracy may create superfluous paperwork, over-regulation and unbalanced/unfair competition. And, in addition, these are enough to undermine the cooperation of public and private sector, which might be a preferred one by the advocates of the new public management.

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<sup>14</sup>Ministry of National Development (2016.) <http://www.kormany.hu/en/ministry-of-national-development/news/huf-1100-billion-to-be-spent-on-hungarian-transport-development> [accessed November 25, 2017]

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