

*THE PRESENT-DAY PROBLEMS OF ADMINISTRATION*

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1. Hard times have come for the administration. I believe it is justified to some extent to accept the year 1988 as a historic borderline : it was that very year that—for the first time in the history of a socialist State—that two governments, in Poland and Yugoslavia, fell, forced to resign in the midst of general accusations of a lack of dynamism, inefficiency, and dilatory operation. The image of power : monolithic, invariably uniform and unanimous, consisting of the political as well as the administrative centre—broke down. In danger, the politicians rather ostentatiously refused support to the administrators ; as a consequence, the principle of triple division of power which had formerly been anathematized ideologically, now returned safely to be quoted in official documents. Therefore, something most important and interesting happened the real significance of which we probably still cannot properly estimate today. The socialist State, the leading Party, State administration and courts : all of those basic elements of society's political organization are now trying to change their shape and substance, as well as the nature of their activities, proceeding rather rapidly and sometimes even ostentatiously. It is still difficult to say today to what extent those efforts will have genuine and profound results and change the quality and not just the external shape of that organization. One can scarcely doubt the sincerity of reformatory intentions and the trend towards qualitative transformations which are indispensable for that matter since they result from objective factors. But the road from declarations to accomplishment is a long and hard one. Government and administration are today in an incessant process of solving conflicts much sharper and more serious than

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before, and need to make decisions which are known beforehand to be half-measures only or engender public dissatisfaction. The administration is forced to operate in the climate of distrust and ill will ; nobody is too willing to help it, and it becomes the first scapegoat in case of repulse.

2. To say the truth, the present administrations largely pay the accounts of the former generations of administrators (this is a rather general trend which can be seen not only in Poland). Just thirty years ago, the world was quite happy to hear slogans about increasing State interventionism and the role of central management ; about great government plans of managing the territory ; about enhancing the effectiveness of administrative steps ; about the fundamental importance of huge projects ; about the new shape and improvement of qualifications of State officials, etc., etc. Those slogans reached Poland with some delay, and—as is usual in that country—had a distorted impact, but we dealt also in Poland with that period of administrative euphory, only to realize reluctantly that the promises had not been kept. But then all those beautiful plans and words proved delusive not only in Poland. Despite the high-sounding announcements and “modernized” methods, governments and administrations of many countries were unable to create a better world : more friendly and open, wealthier and safer, a better place to live. The former threats and dangers persisted as they had been, and some increased (such as for instance environment degradation). In such situation, it was unavoidable that a period of settling accounts should come for all the unprotected promises and disappointed hopes : a period of society’s natural reaction accompanied by increased antipathy towards the administrators and by demands that they should be supervised and controlled more effectively. Since they would not or could not fulfil what they had promised so often, they were now forced to give up some of their power and be prepared for a greater distrust of whatever they did. The thesis as to a universal crisis of administration, if exaggerated to some extent, is nevertheless quite realistic.

3. Watching the universal trends and listening to what is said at international meetings of specialists in administrative sciences, one can learn the basic slogans concerning the changes in administration that are propagated today. The chief one is naturally “the fight against bureaucracy, and probably all subscribe to it although it is not always clear what it actually means. All the same, the following few basic trends can be observed :

— “less law,” that is deregulation : leaving larger areas for the people’s free activity and a greater flexibility of provisions ;

fewer offices," that is reduction of the administrative systems and structures ;

decentralization" and "self-government", that is leaving definite spheres to social organizations and activity ;

— "de-nationalization" (particularly in management and services), that is the State's gradual withdrawal from certain spheres of social life.

The above slogans today give rise to hopes that are similar to those evoked by the above-mentioned promises thirty years ago. Not all of them will probably be accomplished. But something is bound to remain of them ; besides, we are already wiser today than we used to be. At the same time, however, the past experience will probably produce a certain reserve, distance of manner, and scepticism towards the new actions of the next generations of reforms. Thus even if we basically accept the slogans of "total de-bureaucratization" or "universal self-government" or "radical simplification of actions," we should nevertheless remain cautious and cool-headed. Removing defects and errors, one should not shake the whole of the system unless one is positive that it can be replaced with a truly better one.

4. The strategy and tactics of programming, planning and implementing reforms in administration is a specialized branch of knowledge today, with its own ample theory and extensive literature. That branch's motto is the belief as to the need of incessant, nay automatic transformations of the system of administration : if the world changes all the time, the same must happen to administration. Yet there is still a long way to go from the slogans about the need of changes to a reasonable definition of what can be changed and how. The simpleminded conviction still persists today that "the willing" are able to discover the "right" solution provided they get a possibly comprehensive information, as they have the necessary knowledge and means to find out what is "right" in a given situation. All that remains to be done is to remove the obstacles from their way. This thinking is based on the conviction that "good authorities" are bound to succeed in at least improving the situation, if not in solving the problems. Hence the permanent slogan of the advocates of administration reform is a change of the staff policy, selection of "new men," and a considerable number of them, too, in order to add to the democratic solving of problems through establishing additional bodies (a variety of "community councils") among other measures.

But the problem is not as simple as it might seem at first sight. Modern administration is a process of incessant conflict-solving. More and more of those conflicts are objective, which means that they cannot

be solved so as to please everybody. Some are always bound to be dissatisfied. Moreover, the quicker and simpler the solution, the greater also that person's complaints : he is bound to accuse the administration and law of playing into the hands of his adversary only. In administration of today, there are fewer and fewer solutions which might be called universally good and favourable. What some consider a good and right solution, others criticize as lawlessness, injustice, and favouritism. This fact should always be taken into account in any discussions. The times of easy, authoritative, and simple administration are gone never to return.

5. Speaking of reforms as an objective necessity, still another general remark should be made. One of the basic defects of prevision, programming, and planning of changes in administration, and of their propagation in public, is the trend which has persisted for many years now to concentrate nearly exclusively on the anticipated and expected gratifying aspects of the succeeding steps, and to ignore, overlook, or even conceal their doubtful or sometimes even inevitably negative aspects. This is practised on many levels : authors of the succeeding drafts of reform avail themselves of this method when submitting their proposals to political authorities, and try to propagate those drafts after a similar fashion having obtained those authorities' approval. As has been mentioned above, however, universally good solutions are non-existent and objectively impossible in the modern system of government, irrespective of its particular political system. Each solution has good, not so good, and even openly bad angles. This concerns both political and economic ventures (the implementation of economic reform being a good example here), and eventually also the legal ones : the succeeding statutes which are numerous after all. With the help of the media, they are shown to the public as invariably rosy which creates social expectations ; what follows is a correction or change of the solutions which proved utterly incorrect in practice : it takes place in the atmosphere of unpleasant embarrassment and sometimes quite soon after the introduction of those solutions. Such political defeats are unnecessary and might probably be avoided given some composure and deliberation. Considering, however, the fact that this system of optimistic "selling" of drafted reforms and changes has been incessantly applied in practice for many years now, it seems proper that the appropriate centres should put absolutely all such authors of drafts and innovators under the obligation necessarily to include in all their proposals the information concerning the hazards, weak points, and possible defeats they might involve. On the other hand, as regards the programming of future scientific research into the system of government, it seems advisable to

advance a current which might temporarily be called "lathology" (after the Greek *lathos*, error) and would focus on the standard errors, faults, and defects of government in the political as well as organizational, legal, praxiological, personal, and a number of other spheres. This seems to be one of the most important sciences of the future, and its present non-existence makes itself most acutely felt.

6. It does happen that some solutions, which receive an enthusiastic welcome while still on paper, cause a rather bitter disappointment faced with the reality. It would probably be redundant to mention here the unduly high index of affirmative votes established in the Polish referendum of November 1987 which no doubt contributed to the rather unfortunate effects of that action. But let us take, for instance, the paper optimism and simple-minded liberalism of the authors of the draft Act on the spokesman for civic rights who relinquished all forms of preliminary inspection of the complaints and motions submitted to that spokesman, including, those which are in force in much wealthier countries that also consider themselves to be much more liberal and democratic than Poland. Obviously, the effects were not slow in coming : an avalanche of letters immediately showered the spokesman (over 50 thousand during the first year, which is an absolute world record) ; a vast majority of those letters contain claims, and the rather modest staff of the spokesman's office are not even able to read those letters in reasonable time. Thus a show act has been passed, and at least a partial disappointment is bound to follow. It might be added in this connection that the conception of complaint, lingering in the Polish administrative legislation for many years now and similarly formulated, led in consequence to self-denial and self-sterilization : in the general practice, a complaint appears to have no consequence whatever and is abused by the public and disregarded by the administration. But attachment to that illusion is so strong as to result in the anxious rejection of the attempts at reforming that measure, made during the last reform of the code of administrative procedure. Those who rejected it feared that they might be suspected of infringement of the "democratic achievements" of the Polish legislation. In some other countries, the doctrine has spoken since a long time of the symbolic and ritualistic role of some legal institutions which are called relics of magical thinking, inherited from the primitive people. In my opinion, the Polish conception of complaint is such an institution. Other examples might be quoted as well.

7. The basic socio-political function of the Polish authorities and administration of today is to secure the feeling of safety to the citizens. The administration (the government included) which fails in that duty or makes a bad job of it must be prepared for resignation and replacement

with another one. The feeling of safety should be interpreted in the simplest way possible. The object is to secure a safe today and tomorrow, that is employment, housing, education, health services, provisions (production and commerce), rest, culture, etc. A belief has been consolidated in society over many years that the above values are permanent and given once for all. Despite the present administration's efforts at least partly to change that way of thinking (after all, both the economic reform and the various trends towards self-government are aimed, among other things, at persuading the citizens at least to some extent that they should be responsible for their own fate)—not much has been accomplished in this sphere, as can be seen clearly. This situation has consequences that reach farther than might be expected at first sight as politics and economy are absolutely inseparable today. After over 40 years of People's Poland, no "increase of self-government" might be the right medicine to cure the people of such beliefs. Thus without the citizens' feeling of safety, neither a modern State nor a modern administration is possible.

8. The distrust, universally observed today, of the State as organizer and administrator, manifests itself in its extreme form as the more or less open demands that that State be taken to pieces or disintegrated and replaced with a network of various self-governments : local self-governments, firms, associations, etc. Underlying this is a rather naive conviction that things will "go better" then, which means mainly an easier access to a variety of much-desired goods. Obviously, such beliefs base largely on illusions. In the world of today, all self-government is advanced and supported by the central authorities usually in one situation only : if those authorities wish to shake off the responsibility for the problems with which they proved unable to cope successfully themselves (let me mention France by way of example) ; thus the purpose is to share problems rather than privileges. As a consequence, self-government by no means grows easier and enjoyable : quite the contrary, it is much more difficult and inconvenient as an optional way of administrating. The basic risk of the sense of self-government being distorted lies in the self-government organizations' natural trend towards being transformed into organized pressure groups whose chief motivation consists in demanding greater and greater services from the government and a broader participation in the "riches" which the centre has at its disposal, and in fighting against their rivals who demand the same thing. As a consequence, a system of administration based on self-government constitutes a new source of conflicts : namely, its natural outcome is inequality. One province has a better hospital, another one—a better theatre, still another—a better university, and a fourth one—better

roads or shops. Somebody's gain usually involves somebody else's loss. The latter is bound to object fiercely, and to demand that the central authorities "check the exuberant appetites." Such situations could already have been observed in practice.

There is one more thing : the relationship between the development of the conception of self-government and the individual rights. The slogan of "protection of the individual against abuse on part of the authorities" today naturally means the protection against the State machine's intervention. That same protection, however, should also concern abuse on part of a given individual's fellow-citizens, those who form an organized group in particular. One should be prepared for this protection especially in the situation where even small groups may become "autonomous and independent," and the individual's access to services that are vital for his existence (also the economic one) depends on the decision of those groups. It has been stated rightly that no centrally ruling tyrant might ever be as enthusiastic in limiting the rights of an individual as that individual's neighbour, fellow-worker, or member of the same organization. What is needed here are corrections of the system of control and in the sphere of law and the rule of law.

The above statements should not be treated as the author's aversion to decentralization, equalizing tendencies, development of self-government ; nor are they meant as incitement to concentrate the right to decide on the central level only. That would be as absurd as unrealistic. The purpose is just to state that there is and can be no ideal division of tasks and competences between the separate agencies of power and administration, and any self-governments. Each system has its strong and weak points, and none will be accepted enthusiastically by all ; each will give rise to protests and conflicts, and each is bound to age with time and to obstruct progress. There is in the world of today no absolutely "sound" system of administration or management. All of the existing systems suffer from one or another shortcoming or malady. The problem nowadays is one of choosing the malady which we agree to suffer from in order to avoid another trouble, much more serious and painful in our opinion.

9. As follows from the above discussion, I consider new proposals of radical changes and reforms of the structure of the administrative agencies to be unfounded in the present situation. Corrections (of the system of territorial division of Poland, to mention just one example) are no doubt necessary but they should be done leisurely and with deliberation. The present system of supervision of the administration in Poland deserves a similar estimation. It includes practically all institutional elements found in the most developed realizations of the civilized State (what is however evidently necessary is for the adminis-

trative court's competence to be based on the general clause : but little doubts arise as to that need nowadays). I believe Poland is now in for a more difficult and complex stage. It will consist first of all in transformations of the practice of operation of the State management agencies ; in a reshaping of the internal contents of the relations between citizens and the authorities ; on radical changes of the climate in which the conflicts that make up the political process of governing a State are solved. Briefly speaking, we should now pass from shaping the form to shaping the contents. This concerns also the sphere which is most unyielding to transformations and changes, that is the human mind. Admittedly, law is not completely helpless in this field : but its impact here is not as explicit and prompt as in the sphere of formal and institutional changes. Here, law operates slowly and has to force its way ; but transformations, once effected, become fixed in the human consciousness and function practically mechanically afterwards.

What should be an important step in this field is the development of the so-called principle of confidence in the citizen—authorities relations, and its acceptance as one of the fundamental principles of the administrative law and practice. This problem is discussed more often nowadays, also in official pronouncements. In general, that principle should be interpreted twofold. Firstly, it involves a social situation where a provision of law, an administrative decision or another step taken by the State management are not treated as a totally unforeseeable act of Providence—something that no man of sense could ever have expected to happen ; instead, they appear as a logical and natural consequence of the process of administration in a reasonably managed State. Secondly, a rule should be established according to which a citizen who has confidence in the agencies of power and administration cannot suffer any material or other loss in that connection : should such loss take place, it must be redressed honestly, promptly, and without delay. The generalization of that principle and practice might play a most important formative role.

10. It is obvious to everybody nowadays that the slogan of transparence in government is today one of the basic political slogans in the socialist system. Many activists never cease talking about it. Transparence is among others interpreted as the duty of the administrators to provide the public opinion with fuller and more comprehensive information about the causes, aims, and methods of the State agencies' activities. Obviously, however, what is concerned here is not transparence and information for its sake. The two features are intended as the means of the public's better control over the administration, and consequently, of reduction of the administrators' power. The object is after all for the administration not to decide by itself anymore, and for the sphere



of the necessary participation, consultation, adjustment and co-operation to be broadened. Briefly speaking, we deal here with an expression of the trends which have been mentioned above.

The political slogan of increased transparence and better information involves above all the administration's duty to present its aims and intentions intelligibly. This concerns both the far-reaching plans, the separate steps taken, and the individual decisions. The practices in this respect of the Polish administrators are often quite intolerable and arouse an outright suspicion that the vagueness and jabber of the announced plans are intended as a weapon against any future attempts at control and examination of their implementation. This happens at all levels. The assumptions of economic reform were made so vague as if their authors were most particular about their incomprehensibility and the inability to draw definite conclusions from them. The effects proved deplorable for that matter. The protests of councillors can be heard incessantly : the plans submitted to them by the local administration are hermetic and possibly hazy. Finally, the stubborn struggle should be mentioned of judges of the Chief Administrative Court against the administrators : the former try to force the latter to justify their individual decisions in a possibly proper manner, while the latter do all they can to hold their own. This struggle makes one think, too. Two remarks suggest themselves here. Firstly, according to a rather general opinion about the Polish administration, it has learned during the many years of its operation to function tolerably well in the conditions of absolute freedom, not bound by the law or anything else and seeing only to friendly co-operation with the Party cells ; today, when it deals more and more often with a stricter and more rigorous supervision and has to provide proper grounds of its decisions and reckon with representations, it gets confused every now and then and is sometimes at a loss what to do (the best example here are the doings of some representatives of the central authorities during trials before the Constitutional Tribunal...). Also concerned here is probably a specific generation gap : things perceived as disaster, nuisance, and interference of "outsiders" by the older generation of administrators will be part of the normal everyday routine for their successors.

Secondly, the methods of prognosis and planning suffer a crisis nowadays all over the world. The circumstances change so rapidly that even the most scrupulously prepared prognoses and plans sometimes grow worthless with a great speed. I believe it will be the duty of the future administration to explain the fact more explicitly and in greater detail to the public that the prognoses and plans prepared today are in fact rather risky and uncertain ; that their implementation may or may not

succeed ; that a lot depends even on unforeseeable factors. It often happens today a breakdown of a given venture is attributed to specific administrators who are made personally responsible for it and criticized for neglect and remissness. Those accusations may, but then again may not, be true. Responsibility for the breakdown of beautiful visions which had once been presented so nicely, is often political in nature and should concern rather those at the top of the State (e.g. the ministers) as it contains symbolic elements which satisfy the public opinion. In the sphere of administration, however, that responsibility should be distinctly differentiated, which is by the way another element of a greater transparency in politics and management.

11. A slow but distinct development of the elements of a new situation in the sphere of the citizens' rights in relation to the administration can now be noticed. Today, we rightly consider the situation where the offices are forbidden to infringe the citizens' individual rights (or rather, where there are sufficient means of supervision to prevent them from so doing) to be the necessary minimum which simply cannot be abandoned. The problem, however, is that this is not enough anymore. What a citizen asks himself nowadays are other questions which usually read as follows : What may I demand from the State ? On what grounds ? Who should meet my demands ? What is the right procedure and the time limit by which my demands should be met ? Such attitudes, well-grounded for that matter in relation to the former policy and the corresponding contents of law, are quite wide-spread today and it is impossible either to avoid them or to pretend not to notice. It is only sometimes that an answer can be delayed, which however provides the point of departure for political defeats. On the other hand, a statement that "you do have the right to this or that but you cannot get it because there is not enough for all" is generally considered insufficient and treated as the proof of the authorities' and administration's incompetence. As the doctrine noticed long ago, today's notion of justice differs from what could be found in old textbooks. As has been mentioned above, also the notion of "civic rights" has changed, the limits of the classical rights that resolved themselves to protection of citizens against lawless doings of the authorities having been crossed long since. One should be prepared for this trend in the future as well.

This situation leads to some essential transformations in the sphere of social perception of the provisions of administrative law. If the State's ability to satisfy all claims and expectations of its citizens proves insufficient, what results is an explicit pressure on the greater importance of procedural norms. In the situation of market shortages, the "queuing rules" are voluntarily created which are based on unwritten customary

rules and define the procedure of putting down one's name for the purchase of a given article ; the period which the queuing person must necessarily spend actually queuing and for how long he may leave the line ; the persons who may act as the queuing person's substitutes and so on. The sanction of those "social norms" is simple : the person is removed from the line and has neither the right of appeal nor means of control. This must be truly fascinating for theoreticians of law. A similar rise of procedural norms is quite common in the sphere of positive law as well (one proclaimed by the State agencies), to mention just the various "norms" that establish the procedure of access to a variety of much-desired but scarce goods, the means of agricultural production above all. This is an interesting phenomenon which allures researchers. It must be stated from the political point of view that a reasonable and uniform regulation of at least the principles of such procedures is indispensable : without it, we deal with anarchy, corruption and the might that is right. I believe a sound consideration of those matters will be among the most immediate tasks.

12. One of the basic principles of classical administrative law is that the administrative offices (agencies) should remain impartial, that is free of any personal emotions and prejudices, in relation to the citizens' cases under their examination, and certainly to those citizens as natural persons. This assumption was called the "principle of legalistic impartiality" of an office. But in fact, it has always proved impossible to implement fully that principle, and today the chances of its implementation are probably even smaller than ever before (unless I am mistaken). Apart from law, there is also a political element in administration (what I mean here is not only the centrally determined policy of the government but also a variety of local policies). What is more, also the doctrine is quite outspoken nowadays as to the fact that the administration is made up of human beings and not automatons, and human beings cannot remain innerly impartial no matter how hard they try. Some situations, objects, and persons arise their liking ; others, disgust. Naturally, there is also a whole variety of intermediate feelings. This element can neither be avoided or fully eliminated in administration. No formal legalistic supervision, and certainly not the judicial one, is able to detect it. It can, however, be detected (at least in part) by political supervision or by the spokesman for civic rights (whom the Act explicitly incites to do so). But in that case, we deal with a qualitatively different supervision, and quite often simply a different problem. Yet this is precisely the modern trend of development of supervision of the administration : from supervision of actions of the **agency** (mainly of its decisions) to that of the conduct of **officials** (including their purely

personal ways). Supervision of this kind yields but with difficulty to the formal and procedural rigours of legal norms ; various experiments are conducted in many countries, Poland included, to force it in that framework. It is to be expected that this trend will continue in the future ; obviously, it is related to the problem of staff and staff policy.

13. When discussing the future of Polish administration, one can hardly leave out of account the problem of administrative staff, invariably complex and controversial. A belief becomes consolidated in the public consciousness (readily stimulated by the media) that all favourable transformations in the Polish administrative system are hampered by the staff, and especially by the specific way of thinking of the administrative machine based on the principle of deriving the greatest possible privileges from their power (the element of purely psychological satisfaction included), and at the same time bearing the lowest possible responsibility. The wide-spread aversion to administrators has extended to the government : it is only recently that some efforts are made at least partly to change this situation.

There are many sources of this situation and all of them could not possibly be discussed in detail in the present paper. As seen from the outside, a lot has been done in this field : but all of that proves utterly insufficient. The Polish administrative staff find themselves in a paltry state, as the administration is in no position to compete with a great number of more attractive jobs. As follows even from the official statistics, the predominant (70 per cent) type of employee is a youngish woman without professional qualifications (secondary school certificate or not even that), married and having children, who does not hope for any particular professional or social promotion to result from her job in the administration and who cannot derive from that job the element which is now given the fashionable name of "self-realization" and might be defined as a minimum of personal satisfaction. (A question arises in this connection whether any satisfaction may at all be derived from a job which has been in recent years deprived of all of its social prestige and esteem both by society and by the authorities, acting with particular obstinacy.) The intention here is neither to propagate antifeminism nor to oppose the Constitution ; yet it would be wrong to deceive oneself hoping this problem will disappear if nobody mentions it.

It may be supposed that in the future administration, a specific staff policy will become prevalent out of necessity. It is called the Japanese system but might just as well be defined as Leninist as it was Lenin who adopted it in the Soviet Party. It involves strict personal recommendations to posts in administration, and the recommending person's moral responsibility for the recommended candidate. It has also been mentioned

before that a modern trend in administration consists in increased transparency of decisions and requirements as to the grounds of those decisions : a motivation that a given decision is "comformable to law" is not considered sufficient today not only in relation to the persons concerned but also to broader social groups and even the administrative court. The question must be answered more and more often why a particular decision has been taken and not another one of several possible solutions. Hardly any administrator of the basic level finds' the courage nowadays to decide single-handed about allocation of a flat for example : what he prefers is to hide behind legal provisions or at least the instructions of his superiors, the opinion of the local Party committee or decision of a social board. This situation has strong but also weak points : the former include probably the "socialization" of administration ; the latter, the establishment of a habit to look for "underlays" and never-ending excuses for every occasion. One has to be prepared for this trend and be aware of its operation not only in the shaping of principles of staff policy in administration but also in the whole of management of that sphere and in formulating the staff's tasks and standards. "The staff determines everything," Lenin said, and we can believe him. Thus the future shape of administration depends on the present preparation of its staff ; this is another of the vital problems.

But a future Polish administrator will be in no position to expect to win authority through hiding behind legal provisions, representations and social bodies or even political decisions of the Party. He thus needs personality traits on which to base his own prestige. The most important of those traits are : a specific character and way of conduct based on the traditional system of moral values (moral integrity, renouncement of the privileges despised by society, an indeed ostentatious impartiality and so on) ; next, professional competence the value of which still remains uncontroversial in the midst of incessant attacks on all sources of authority, and the ability judiciously and efficiently to manage public property (which will probably be a most valuable feature as Poland is no doubt in for a longer period of "thrifty socialism"), and finally, the ability to co-operate with society in a frank, convincing, and effective manner. All of this follows from the general trends of social development and from the need to change the administration's status in the State.

14. Another question, related to the above, should be mentioned here : though probably not as fundamental and important as what has been said before, it is however one which I would not like to leave out of account. Some authors point to the fact that culture grows fashionable again all over the world. After the period of admiration for

“workers’ culture” in all its varieties, including the abominable boorishness and vulgar populism which sometimes led to grotesque distortions (also in Poland, I am sorry to say), endeavours can now be observed at least partly to return to all that is noble, elegant, and refined, even if it costs more and is not open to all. As Teilhard de Chardin stated rightly, the Creator acts like a screw, that is spirally ; this concerns the human views and emotions as well. It would probably be most profitable for that trend towards “adding cultural value” to be reflected, among other things, also in the processes of administration, in approach to administrative law and treatment of the basic functions of its doctrine. These requirements are by no means inordinate. The fact should be taken into account that administrative law and the trends of development of administrative sciences may in fact stimulate a great variety of acts of both the administrators and the administered, that stimulation proceeding not only through direct orders and bans but also through the creation of a specific climate of conduct and activity on both sides of the desk, and the shaping of a specific way of thinking about administration and its social functions. Obviously, such problems cannot be solved by means of a single provision ; what is more, it takes a certain sacrifice if they are to be solved at all. One can hardly imagine *malgré tout* a cultural and competent official, confident in his knowledge and position, who would nevertheless be easily induced to court and serve the public, particularly one as aggressive and demanding as is widespread in Poland nowadays. We deal here, however, with a definite objective conflict which calls for a reasonable solution. That solution may follow either of the two directions : the one adopted to date in Poland, based on a belief that “like society, like its officials ;” and the other and probably more advisable one : “an official represents the State and therefore performs also educational functions.” What remains certain, however, is that those two directions cannot be combined to make a sensible whole, at least not today, unless one plans to produce, as before, the weak, undereducated, and thus aggressive personalities according to the slogan of “fighting exclusivity.” Any genuine specialistic education—just like any knowledge that goes beyond the mediocrity which is in fact just the first step towards the shaping of personal culture—contains the element of exclusivity out of its very nature ; what can therefore be discussed are rather its contents and above all, the forms of manifestation. But the problem certainly will not disappear of itself if we keep pretending that it does not exist at all.

15. I believe the above statements should now be recapitulated briefly. And thus :

a) it would be wrong to aim at radical transformations of the ad-

ministration's organizational system. "Earthquakes" are hardly necessary. Corrections should be made leisurely and with deliberation ;

b) the procedure of introducing changes is an important issue. The possible favourable but also negative effects of such changes should be shown, and straightforward information provided about the hazards ;

c) it is indispensable, and indeed objectively requisite in the present conditions to increase the extent of self-government ; it would be wrong, however, to cherish the illusion that self-government is a magical cure to all maladies of the system of management. It has its faults and weak points as any other system, in a destitute country in particular ;

d) we have acquired a decent and complete system of agencies to supervise the administration. What is necessary, however, is to base the competence of administrative courts on the general clause (the principle of review of all decisions with the possible trifle exceptions) ;

e) the functioning of administration in the sphere of its relations with the citizens should be based on a legally formulated principle of confidence. It involves also the inclusion into the fundamental principles of the agencies' functioning of rules of a moral nature, e.g. that the office should not lie or quibble, that it should keep its promises, and act honestly and decently ;

f) in the sphere of administrative law, the aim should be to reduce the number of provisions, to standardize and simplify them, to work out stable and clear general principles of functioning of the administrative agencies ;

g) it is necessary to strive after a greater transparency and intelligibility of administrative actions ;

h) emphasis should be laid on elaboration of the basic rules of procedure in all relations between the citizens and the State.

This concerns above all :

- a clear definition of competences,
- a system of two instances as regards all decisions,
- securing the possibly greatest transparency for the person concerned,
- straightforward and decent motivation of decisions,
- a full judicial supervision ;

i) resolute steps should be taken in the sphere of staff policy in administration ; the official's professional competences, prestige, and status should be enhanced according to the principle that "officials betoken the quality of the State."

I am also of the opinion that in the course of preparatory works on the draft of a new Constitution, some of the above principles (and several others as well) should be given basic importance and turned into constitu-

tional principles. These are among others : the principle of the individual's subjective rights in relation to the State ; the principle of transparency of administrative actions ; the principle of confidence ; the principle of stability of acquired rights ; the principle of compensation by the State of damages caused by the acts or actions of the authorities ; the principle of two-instance decisions ; the principle of substantial and legal motivation of all decisions ; the principle of a general and full judicial supervision of administrative actions. Other items can theoretically be added to this list (like for instance the principle of legalistic impartiality of offices, the inclusion into the Constitution of the entire system of review of legality of the actions of authorities and administration in the Polish People's Republic and arrangement of that system, etc.). I think, however, that such problems can be left open for further discussions.

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