

ARTICLES

Good Governance and Good Public Administration

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Abstract: The following article will examine the main principles of good governance and good public administration. It will outline the structure of reforms which have been accomplished in Hungary since the change in government in 2010, with special attention paid to the provisions of the new Constitution of Hungary that entered into force in 2012, and the Magyar Zoltán Public Administration Development Program, which will elaborate on the characteristics of what is considered the 'good state.'

Keywords: good governance; good public administration; good state

1. 'Comprehensive' thoughts

There have been significant reforms in Hungary since 2010,¹ and these increased efforts toward policy-making are a stark contrast to the relatively silent two-decade-long period immediately after the regime change, from approximately 1989/1990 to 2010.² Yet, it also reflects Hungary's shift towards an action-driven and fast-paced environment where rapid legislative³ and government (as well as constitutional⁴) decisions can occur.⁵

2. Good governance⁶

In the 1990s, the term 'good governance' began emerging fairly often as a demand on behalf of international financial institutions toward recipient countries concerning the structure and operation of their political institutions.⁷ Namely, that neither concrete objectives of development policies nor general macroeconomic ideas can be realized without having an operational system of governance, regulation, and implementation in a country's political and economic units.⁸ Over the years, there has been an evolution in the understanding of 'good governance.' Currently, this term defines characteristics of a desirable regulating and governing system, and represents a general reference framework for the evaluation of political governance.⁹

Good governance is an global phenomenon, and as such it is and should be considered at the international level. A legally binding norm is either the part of a national legal system, or somehow belongs to the international law (treaty law, customary international law).¹⁰ Legal systems themselves are of course not free from the influence of globalization, as interchange of legal institutions and interactions between legal orders are everyday phenomena in our world today.¹¹

In international treaty law (conventions of human rights) three fundamental rights, the freedom of opinion and freedom of expression,¹² the right to peaceful assembly¹³ and the freedom of association¹⁴ are crucial preconditions to good governance.¹⁵ Additionally, a non-discrimination clause can be considered as a basic prerequisite for all the principles of good governance.¹⁶

Equality as the principle of good governance is guaranteed in the non-discrimination clauses of the International Bill of Human Rights.¹⁷ Article 2 of the International Covenant on Civil and Political Rights (ICCPR) contains a non-discrimination clause that is amplified by Article 3, which contains an undertaking to respect the principle of equality of men and women in enjoyment of rights secured:¹⁸ Good governance is not only understood at national or state levels, it is also a set of principles for good urban government, and better local governments. The main principles of good (urban) governance are: equity, civic engagement, transparency, and accountability, which all incorporate aspects of human rights law. Other principles like sustainability, subsidiarity, efficiency, and security do not have any existence in human rights laws. In this regard, it can be stated, that the five core principles of good

governance are: equity, efficiency or effectiveness, accountability, participation and security. UN-HABITAT's¹⁹ proposed list of seven norms²⁰ can be subsumed under these abovementioned five principles.

The United Nations Millennium Declaration²¹ clearly states that good governance is a key tool for the elimination of poverty. This Declaration is not legally binding, but it is a document of intent in which the Member States of the UN commit themselves to promote good governance within their countries. This applies to all level of governance, including at the state, regional, and urban governance levels.

Although the term 'good governance' has no generally accepted definition, its elements – the characteristics of a desirable governance – re-emerge in different descriptions: participative, equitable and inclusive, it is in line with the rule of law and is transparent, responsive, effective and efficient, and consensus-oriented and accountable.²² These principles are general enough to say that their validity is not limited to present governance; they can be found – although not always explicitly – in the political thought of the past as well.²³

Upon closer examination of the main legal elements of good governance, equity can be defined as equal access to decision-making processes, and the basic necessities of local and community life.²⁴ Practically, this means the inclusion and creation of fair and predictable regulatory frameworks, according to relevant international documents.

Efficiency²⁵ refers to the ratio between the outputs (products, services) and inputs (resources used).²⁶ Efficiency or effectiveness requires that institutions and processes achieve their goals while making the best use of resources.²⁷ Effective governing is when policy goals are achieved at the lowest possible cost and in due time.²⁸ Effective governing is concerned with the effective coordination of key policy actors: state institutions and social actors.²⁹

Civic engagement implies that living together is not a passive exercise; it pertains to people's right to participation and those mechanisms supporting people's participation. Civic engagement is well guaranteed in Article 25 of the ICCPR.³⁰ Practical means of realizing these norms include inter alia, establishing the legal authority for civil society to participate effectively in such mechanisms as development councils. Therefore participation is also often considered a cornerstone of good governance.³¹

The key element of participation is that the interests of almost every citizen, every class of society – including people with the lowest ability to promote

their concerns – should be taken into account in the course of political decision making.³² This requirement can be fulfilled with direct participation of the people³³ and by the representative organizations as well.³⁴ According to Frivaldszky (2012), the popularity of presently emerging ideas of ‘good governance,’ as well as their increased legitimacy is, “not only due to governmental effectiveness, but also to the closely related participatory governance.”³⁵ And citizen participation is a key element in promoting transparency and accountability.

Transparency and accountability are of key importance if we want to increase the quality of governance.³⁶ Transparency is an invaluable element and precondition to any government reforms.³⁷ This is easy to comprehend: if the citizen possesses more knowledge, he has access to more possibilities.³⁸

However, in countries where government upholds and distorts information about the economy and economic policy, the independent media can become weak, or the parliament cannot control the government, and the quality of governance decreases.³⁹

The accountability of local, regional and national authorities to their citizens is a fundamental tenet of good governance. Similarly, there should be no place for corruption in any state organization, because it can undermine government credibility⁴⁰ and deepen poverty.⁴¹ Transparency and accountability are essential to a stakeholder’s understanding of government, and to who is benefiting from decisions and actions. Access to information is therefore fundamental to this understanding and to good governance. Furthermore, laws and public policies should be practised in a transparent and predictable manner. Elected and appointed officials and other civil servant leaders must set an example of high standards of professional and personal integrity.

Among practical means of realizing these norms we can observe, inter alia:

- transparent tendering and procurement procedures and the use of integrity pacts and monitoring mechanisms in the process;
- regular, independently executed programmes to test public officials’ integrity response;
- promoting an ethic of service to the public among officials while putting into place adequate remuneration for public servants; and
- establishing codes of conduct and provision for regular disclosure of assets of public officials and elected representatives.

Transparency requires decision-making processes which follow clear regulations.⁴² Information concerning that process should be freely available for affected citizens.⁴³ Further, not only must the decision-making be transparent, the enforcement of the decision is also subject to open procedural rules.⁴⁴

Transparency is a key feature of not just the government, but of the private sector as well,⁴⁵ and there is a correlation between the need for transparency in the public and private sectors.⁴⁶ Unfortunately, where transparency and accountability of the public sphere is low, the probability of ‘state capture’ and other kinds of illegal business influences on the governance is higher.⁴⁷

3. Good administration

Good public administration is a prerequisite for good governance.⁴⁸ The expression ‘good administration’ has become somewhat fashionable and appears in various instruments both in European and in national level, but authors provide varying definitions.⁴⁹ It is therefore necessary first to acknowledge that there are differing concepts of good governance at the international and European levels.

The European Union Charter of Fundamental rights and freedoms includes⁵⁰ the right to good administration.⁵¹ This Article 41 is based on the existence of the Union as subject to the rule of law, the characteristics of which were developed in the case law enshrining inter alia good administration as a general principle of law. According to the Charter, every person has the right to have his or her affairs handled impartially, fairly, and within a reasonable time by the institutions, bodies, and agencies of the Union. The right to good administration is only applicable in legal relations with EU institutions, irrespective of national authorities, although there are scholars who argue the need to extend it to them, at least when applying EU law.⁵²

This right includes:

- the right of every person to be heard, before any individual measure which would affect him or her adversely is taken;
- the right of every person to have access to his or her file, while respecting the legitimate interests of confidentiality and of professional and business secrecy; and
- the obligation of the administration to give reasons for its decision(s).

This right is understood more widely by the Recommendation of the Council of Europe.⁵³ The basic principles, introduced by the Recommendation on good public administration, establish the goodness of public administration by the basic values of the rule of law: legality, equality, impartiality, proportionality, legal certainty, proceeding within reasonable time, involvement, respect for privacy, and transparency.⁵⁴ According to the Recommendation, public authorities shall act in accordance with the law. Public authorities shall further act in accordance with rules defining their powers and procedures laid down in their governing rules and exercise their powers only if the established facts and the applicable law entitle them to do so, and solely for the purpose for which they have been conferred.⁵⁵ This Recommendation also includes several suggestions to Member States in promoting good governance.⁵⁶ Among them, one is of the adoption of standards established in a model code which is attached as an appendix to the Recommendation itself.⁵⁷ However, this Recommendation is directed to the exercise of public power at the national (not the international) level, but with the increasing powers of international organizations, the principles listed are also becoming of growing relevance at the international level.⁵⁸

The requirements of a right to good administration stem from the fundamental principles of the rule of law,⁵⁹ such as those of lawfulness, equality, impartiality, proportionality, legal certainty, taking action within a reasonable time limit, participation, respect for privacy, and transparency. While the rule of law is clearly a constitutional idea, its concretization in specific standards should be regarded as being of a more administrative nature.⁶⁰ These principles provide procedures to protect the rights and interests of private persons, inform them and enable them to participate in the adoption of administrative decisions.

Jurisprudence distinguishes three aspects of the rule of law. Firstly, the principle expresses a, 'preference for law and order within a community rather than anarchy', which is the philosophical view of society linked with basic democratic notions. Secondly, the rule of law, 'expresses a legal doctrine of fundamental importance, namely that government must be conducted according to law, and that in disputed cases what the law requires is declared by judicial decision'. Thirdly, 'the rule of law refers to a body of political opinion about what the detailed rules of law should provide' in matters both of substance and of procedure.⁶¹

Under the Council of Europe, understanding good administration is an aspect of good governance. It is not just concerned with legal arrangements, but depends on the quality of organization and management, and it must meet the requirements of effectiveness, efficiency, and relevance as determined by the needs of society. Good administration must maintain, uphold, and safeguard public property and other public interests. It must comply with budgetary requirements, and (similarly to the UN requirements) it must preclude all forms of corruption. Any form of good administration is also dependent on adequate human resources available to the public authorities, and on the qualities and appropriate training of public officials.

The European legislator now focuses ‘not just on specific administrative acts, but also on the administrative procedures themselves. In other words, there has been a shift in emphasis from the outcome of administrative action (result) to the administrative behaviour (functioning).’⁶²

4. Measures of the Hungarian State for the vindication of the good governance’s principles

The following is to consider what Hungary has done for the vindication of the principles of good governance.

4.1 Provisions of the Hungarian Constitution

On 1 January 2012 the new Constitution of Hungary entered into force, and is referred to as ‘Fundamental Law’ or ‘Basic Law’.⁶³ Fundamental Law incorporates many provisions that are in close connection, and therefore contributing, to the enforcement of the principles of good governance. When compared to the former Constitution, some of these provisions are new, ⁶⁴ but some were also previously present.⁶⁵

The National Avowal⁶⁶ of the Fundamental Law states that:

– We believe that we have a general duty to help the vulnerable and the poor. As it was previously mentioned, the United Nations Millennium Declaration clearly states that good governance is a key tool for the elimination of poverty.

– We believe that the common goal of the citizens and the State is to achieve a good quality of life, safety, order, justice, and liberty. Referring back to philosophical views of good governance, happiness and the ‘good life’ for people can prove the worthiness and efficiency of government actions.[67](#)

– We hold that democracy is only possible where the State serves its citizens and administers their affairs in an equitable manner, without prejudice or abuse.

Additionally:

– Article B states: Hungary is a state under the rule of law.[68](#)

– Article N declares the principle of balanced, transparent and sustainable budget management, and in the course of performing their duties, all state organs (public administrative authorities, local governments, etc.) shall be obliged to respect this principle.

– Article XXIV declares the key element of the right to good administration, that is: Every person shall have the right to have his or her affairs administered by the authorities in an impartial, fair and reasonably timely manner. This right shall include the obligation of the authorities to justify their decisions as determined by law.[69](#)

The impact of the Charter is rather obvious on this provision because the last phrase of Article 41 para. 1 and 2 item C are textually present here (administration in an impartial, fair and reasonably timely manner, and the obligation to justify decisions).[70](#) Equal contents can be found in para. 2 of the Fundamental Law and Article 41 para. 3 of the Charter, both regulating compensation of the damages from unlawful conduct.[71](#)

4.2 Magyary Zoltán Public Administration Development Program

The Magyary Zoltán Public Administration Development Program (the Magyary Program), which was expanded in 2011, contains the reforms and principles of the public administration system which was introduced by the conservative government that formed in 2010. The Magyary Program[72](#) is rooted the concept of the good state, which itself is closely linked to concepts of good governance, and good administration.[73](#)

The Magyary Program became one of the frameworks, and the continuously renewing and ‘rephrased’ base – beyond public administration – of the Hungarian government’s ideas regarding the good state after 2010.[74](#)

The 'good state' concept, which is closely related to the idea of good governance and good administration underpins the ethical norms of both the common good and good public service. [75](#) If one had to define the core idea of the 'good state' one could say that it is the ability to reflect on real social problems.[76](#) And, that it emerged as a solution for an impending crisis further underlines the significance of legal requirements towards a good state and stresses that necessity.[77](#)

The Magyary Program on the one hand set down the legitimacy and results of the reform that began in 2010, but also appointed the public administration reform's main tasks. The Magyary Program also elaborates on the characteristics of the good state.[78](#) According to the Magyary Program (and to the opinion of the Ministry for Public Administration and Justice) this concept is able to mark the main direction for the state management model. The concept of the Good State as a definition could be understood as follows:

A state may be regarded as good if it serves the needs of individuals, communities and businesses in the interest and within the boundaries of the common good, in the best possible way. The concept of common good is that:

- the State creates a lawful and equitable balance between a number of interests and needs, allowing the enforcement of claims in this way and provides protection;

- the State proceeds with due responsibility in the interest of the protection and preservation of the nation's natural and cultural heritage;[79](#) and

- the only self-interest of the State is that it should be able to enforce the above two elements of the common good (under any circumstances and of course effectively); in other words, the State should create an effective rule of law, therefore should provide the functioning of its institutions, and should provide the honouring and accountability of individual and collective rights.[80](#)

A smart state is defined as: good state, simpler state, better public services, better procedures, better civil, and public servants.[81](#)

5. Summary

Good governance is a global phenomenon and should be understood at the international level. Norms, requirements, and the supporting practical means previously addressed are based on the international law of human rights, and are binding to all member states of the UN. The UN General Assembly's Millennium Declaration (while not legally binding under international law)

stresses the following: success in meeting the objectives of conducive development and elimination of poverty in the world depends, inter alia, on good governance in each country. It also depends – according to the UN Declaration – on good governance at the international level and on transparency in financial, monetary, and trading systems.⁸²

Good public administration is a prerequisite for good governance. The European Union Charter of Fundamental rights and freedoms include the right to good administration. The Fundamental Law of Hungary (the Constitution which entered into force in 2012) incorporates many provisions that are in close connection, and therefore contributing to, the enforcement of the principles of good governance. The impact of the Charter is obvious on these provisions of Fundamental Law. The Hungarian Government set the formation of a good state as its objective. The Magyary Program established the legitimacy and results of the reform that began in 2010, and also appointed the public administration reform's additional main tasks. The Magyary Program elaborates on the characteristics of the good state.

References

¹. The Government that stepped into power in 2010 had a two-thirds majority in Parliament. Even with such unprecedented support, it had to face the economic crisis while dealing with the systemic controversies of the transitional period. As part of this double effort, the Government launched a vast reform agenda for the entire public administration system. In general terms, the reform can be summarized as the centralization of institutions (fewer ministries), centralization of competencies from municipal (local government) level to territorially distributed central public administration organs. Márton Gellén, Governance in Administrative Reforms: Hungary and the Current Trends in Europe, 68, in Krisztián Kádár (ed.), Good governance: international dimensions (Budapest, National University of Public Service, 2015).

². For a long time, Hungary has been known as the 'preeminent student' of Westernstyle democracy and capitalism in the post-communist bloc. Democratic transition was marked by enormous development in the rule of law, public institutional development, rapid economic liberalization, as well

as the momentous and profound democratization of the entire society. With the perspective of the more than two decades that have passed since the regime change, the trends in the Western model societies during the same historic period in appear to also be a decisive factor in the long-term characteristics of local transitions. The exceptionally long, steady growth period and dynamics of the ‘roaring nineties’ used to provide a supportive external atmosphere for transitional reforms in the state institutions. On the other hand, however, this period veiled the substantial issues of whether the models taken as guidelines for the transition were truly the optimal one for the long run. Transition countries – including Hungary – were not prepared for any of the systemic problems of the Western model. Nevertheless, times changed, and when the economic crisis erupted in 2008, Hungary found itself in a situation in which the internal challenges of the still ongoing transition and the sudden and enormous external challenges merged and created a truly ‘wicked’, multi-faceted crisis. Gellén, *supra* n. 1, at 67.

3. Between the summers of 2010 and 2011 legislation was extremely ‘revolutionary’ in Hungary, as the 266 approved acts (from which 95 were brand-new, while 171 were modifications of previous acts) and 172 decisions of the Parliament significantly exceed the annual statistics of the first years of previous governmental cycles (before and after the change of the political system in 1990). Between 2006 and 2010 these numbers in total are 263 (new) and 328 (modification). Almost one-third of the acts enacted in 2011 were modified in the same year: in December 63 of the 213 acts approved in 2011 – which was a new record – were modified. *Ádám Rixer, Attempts of the good state in Hungary: New contents of norms created and maintained by the state, IX. Iustum Aequum Salutare, 129, 130 (2013).*

4. In the years 2010 and 2011 the Constitution of Hungary was amended more than ten times, before the new constitution entered into force in 2012.

5. The establishment of the National University of Public Service by the Act of Parliament in 2011 is a perfect example for that; the interval between the very idea emerged and the operations of the new University started were only 1,5 years. And it is worth underlying that the university was not a direct or immediate answer to any global phenomenon or global need. It has rather

developed as a cornerstone of the comprehensive Hungarian state reforms: the restructuring and reconstruction of the state in Hungary.

6. Literature on good governance is incredibly extensive and comprehensive, and for these reasons it would be impossible to provide a concise summary in this article. Zsolt Boda, Some Notes on Fairness, Trust and Good Governance, IX. *Iustum Aequum Salutare*, 9, 17 (2013). For a recent analysis of conceptions of governance and good governance in the Hungarian and international academic discourse see György Hajnal, Gábor Pál, Some reflections on the Hungarian discourse on (good) governance. IX. *Iustum Aequum Salutare*, 95–106 (2013). Hajnal and Pál indicate that in a significant part of domestic literature – contrary to the trends in international literature – the homogeneous conglomerate of good governance and New Public Management ideas are put into contrast with a raw, simplified way with good government ideas and the neo-Weberian approaches identified with them. See Ádám Rixer, Introduction, in András Patyi, Ádám Rixer (eds.), *Hungarian public administration and administrative law*, 69 (Passau, Schenk Verlag, 2014). Rixer also explicates that the contents of the expression ‘Good Governance’ is almost fully identified with the New Public Management approach and its contents in the domestic literature. See Rixer, *Ibid.*

7. László Komáromi, Good Governance and Direct Democracy. Examples and Lessons from Past and Present, IX. *Iustum Aequum Salutare*, 107 (2013).

8. Uwe Holtz, *Entwicklungspolitisches Glossar*, 71–72 (Complete revision and extension of the version of 2006, University of Bonn, 2009), http://www.uni-bonn.de/~uholtz/virt_apparat/EP_Glossar.pdf (accessed: 17 December 2012). For the evolution of the term ‘Good Governance’ see further Rudolf Dolzer, Good Governance: Genese des Begriffs, konzeptionelle Grundüberlegungen und Stand der Forschung, in Rudolf Dolzer, Matthias Herdegen & Bernhard Vogel (eds.), *Good Governance: Gute Regierungsführung im 21. Jahrhundert*, 13–23 (Freiburg, Konrad-Adenauer-Stiftung e.V. – Herder Verlag, 2007), <http://www.kas.de/upload/dokumente/verlagspublikationen/Governance/gov>

[ernance Dolzer.pdf](#) (accessed 19 December 2015). Cited by Komáromi, supra n. 7, at 107.

9. Komáromi, Ibid. 107.

10. Under the term ‘international law’ I mean those laws governing the legal relations between nations, rules and principles of general application dealing with the conduct of nations and of international organizations and with their relation inter se, as well as with some of their relations with persons, whether natural or juridical. See Henry Campbell Black, *Black’s Law Dictionary*, 565 (St. Paul, West Group, 1998).

11. For the globalisation of constitutional law see e.g. Mark Tushnet, *The Inevitable Globalization of Constitutional Law* (Paper No. 09-06, Harvard Law School, Public Law & Legal Theory Working Paper Series); David S. Law, Mila Versteeg, *The Evolution and Ideology of Global Constitutionalism* (Paper No. 10-10-01, Washington University in St. Louis, School of Law, Faculty Research Paper Series, 2010); for the globalisation of administrative law see e.g. Edoardo Chiti, Bernardo Giorgio Mattarella, *Global Administrative Law and EU Administrative Law: Relationships, Legal issues, and Comparison* (Berlin–Heidelberg, Springer, 2011).

12. At a national level, freedom of expression is necessary for good government and therefore for economic and social progress. Freedom of expression and freedom of information contribute to the quality of government in various ways: e.g. they promote good governance by enabling citizens to raise their concerns with the authorities. If people can speak their minds without fear, and the media are allowed to report what is being said, the government can become aware of any concerns and address them. <https://www.article19.org/pages/en/freedom-of-expression.html> (accessed 5 January 2016) Freedom of expression is an essential pillar of governance more broadly, because this right enables as many citizens as possible to contribute to, as well as monitor and implement, public decisions on development. The importance of press freedom in promoting good governance is underlined by the increasing numbers of people who have access to an expanded realm of media platforms. <http://www.unesco.org/new/en/unesco/events/prizes-and-celebrations/celebrations/international-days/world-press-freedom-day/2014->

[themes/free-media-contribute-to-good-governance-empowerment-and-eradicating-poverty/](#) (accessed 5 January 2016) For the role of free press in promoting good governance see Pippa Norris, The Role of the Free Press in Promoting Democratization, Good Governance and Human Development, 66–75, in Section 2 of Mark Harvey (ed.), Media Matters: Perspectives on Advancing Governance and Development (Global Forum for Media Development, Internews Europe, 2008).

13. In October 2012, the Human Rights Council renewed its commitment to promote and protect the rights to freedom of peaceful assembly and of association, by adopting resolution 21/16 (October 2012) and resolution 24/5 (October 2013), in which it inter alia reiterated the important role of new information and communications technologies in enabling and facilitating the enjoyment of the rights to freedom of peaceful assembly and of association, and the importance for all States to promote and facilitate access to the Internet and international cooperation aimed at the development of media and information and communications facilities in all countries; furthermore recognized the importance of the freedoms of peaceful assembly and of association, as well as the importance of civil society, to good governance, including through transparency and accountability, which is indispensable for building peaceful, prosperous and democratic societies; declared itself aware of the crucial importance of active involvement of civil society in processes of governance that affect the life of people. See the website of the Office of the United Nations High Commissioner for Human Rights <http://www.ohchr.org/EN/Issues/AssemblyAssociation/Pages/SRFreedomAssemblyAssociationIndex.aspx> (accessed 19 December 2015).

14. Freedom of association is more than a fundamental right, it is also a means of supporting democracy. For further details about the freedom of association and good governance see B. C. Smith, Good Governance and Development, 128 (London, Palgrave Macmillan, 2007).

15. For some key principles of good governance and an explanation of how each is linked with a particular type of human right see John Graham, Bruce Amos & Tim Plumtre, Principles for Good Governance in the 21st Century, 15 (Policy Brief 4), <http://iog.ca/wp->

content/uploads/2012/12/2003_August_policybrief151.pdf (accessed 5 January 2016); Adel M. Abdellatif, Good governance and Its Relationship to Democracy and Economic Development. Global Forum III on Fighting Corruption and Safeguarding Integrity, 26 (Seoul 20–31 May 2003, Workshop IV Democracy, Economic Development, and Culture Annex III). <http://web.iaincirebon.ac.id/ebook/moon/bureaucracy-governance/goodgov.pdf> (accessed 5 January 2016) While Good Governance doctrines reflect political and civil rights, it is less clear to what extent in the practice of institutions they also reflect social, economic and cultural rights. Frederick M. Abbott, Christine Breining-Kaufmann & Thomas Cottier (eds), International Trade and Human Rights: Foundations and Conceptual Issues, 101 (Ann Arbor, University of Michigan Press, 2006).

16. All form a part of the International Covenant of Civil and Political Rights – ICCPR

17. Art. 7 of the Universal Declaration of Human Rights declares the principle of equal protection before the law.

18. Art. 3. The States Parties to the present Covenant undertake to ensure the equal right of men and women to the enjoyment of all civil and political rights set forth in the present Covenant.

19. United Nations Human Settlements Programme, www.unhabitat.org

20. The seven norms of good urban governance as defined by the UN-HABITAT are sustainability, subsidiarity, equity, efficiency, transparency and accountability, civic engagement and citizenship and security. The Challenge of Slums: Global Report on Human Settlements, 182 (United Nations Human Settlements Programme, 2003).

21. One of the most important aims of the United Nations’ programme of Reinventing Government is to promote good governance towards the realization of the United Nations’ Millennium Development Goals (MDGs). The MDGs are a set of targets on certain human development variables adopted by the Millennium Declaration of the UN General Assembly in 2000. <http://www.un.org/millennium/declaration/ares552e.htm> (accessed 5 January 2016); for further details see Governance for the Millennium Development Goals: Core Issues and Good Practices, 7th Global Forum on

Reinventing Government Building Trust in Government 26–29 June 2007, Vienna, Austria (A United Nations Publication, Printed in the United States of America 2006), <http://unpan1.un.org/intradoc/groups/public/documents/un/unpan025110.pdf> (accessed 5 January 2016). This book constitutes the first attempt to link the MDGs to the important concept of governance. As such, it delineates the theoretical and empirical links between policy making and sound governance while at the same time contributing to the debate on democratic governance.

22. Kioe Sheng Yap, What is Good Governance? United Nations Economic and Social Commission for Asia and the Pacific (s. a.), <http://www.unescap.org/pdd/prs/ProjectActivities/Ongoing/gg/governance.pdf> (accessed 17 December 2012), cited by Komáromi, supra n. 7, at 107–108.

23. Komáromi, supra n. 7, at 108.

24. Regarding equity Kiss indicates that an important aspect of public services is how the benefits are distributed among the various groups of the society (groups can be formed based on, for example, socio-demographic or geographical factors). In a narrower sense, equity may refer to equality in access to services (for example, the chance for students in smaller villages to access high quality education). This narrower approach, however, ignores that several factors other than access to services also have an influence over outcome and impact indicators. Norbert Kiss, Public Policy Making and Organization of Public Services, in Krisztián Kádár (ed.), Good governance: international dimensions, 165 (Budapest, National University of Public Service, 2015).

25. The term ‘productivity’ is also often used instead of ‘efficiency’. Most often, ‘efficiency’ refers to an input/output ratio (for example, total unit cost of products produced or serviced delivered), while productivity is a measurement of output/input (for example, units produced per employee). Kiss, Ibid. 171–172, endnote 4.

26. An organization is more efficient than another if it is able to produce the same level of output by using fewer input resources, or is able to produce

more outputs from the same amount of inputs. Outputs contribute to the achievement of shorter term outcomes and longer term impacts (which address social needs), effectiveness refers to how much outputs contribute to expected outcomes. Actual measured impacts are often dependent on environmental factors as well. Kiss, *Ibid.* 165. Kiss indicates that the performance of public service is generally described by the 4E model, referring to economy, efficiency, effectiveness, and equity as building blocks of public service performance. Kiss, *Ibid.* 157.

[27.](#) Yap, *supra* n. 22, at 3, cited by Komáromi, *supra* n. 7, at 114. footnote 25.

[28.](#) Boda, *supra* n. 6, at 9.

[29.](#) Boda, *Ibid.* 9.

[30.](#) Art. 25. Every citizen shall have the right and the opportunity, without any of the distinctions mentioned in Art. 2 and without unreasonable restrictions: (a) To take part in the conduct of public affairs, directly or through freely chosen representatives; (b) To vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors; (c) To have access, on general terms of equality, to public service in his country.

[31.](#) Komáromi, *supra* n. 7, at 108.

[32.](#) Komáromi, *Ibid.* 108.

[33.](#) The majority of scholars are of the opinion that direct democratic processes may reduce the efficiency of a political system in the short run. Popular rights can restrict the government's scope of action. The more participants have a share in decision-making, the more information, opinion-forming, co-ordination, conflict-regulation, mobilisation etc. are required. However, these additional costs may be recovered in the long run. Komáromi, *supra* n. 7, at 114.

[34.](#) Komáromi, *Ibid.* 108.

[35.](#) János Frivaldszky, A jó kormányzás és a helyes közpolitika formálásának aktuális összefüggéseiről [On the present context of good governance and

shaping proper public politics], 61, in Szabolcs Szigeti (ed.), *A jó kormányzásról: Elmélet és kihívások* [On good governance: Theory and challenges] (JTMR Faludi Ferenc Akadémia – Jezsuita Európa Iroda-OCIFE Magyarország – L'Harmattan, 2012), cited by Ádám Rixer, The relationship between civil organisations and public administration in Hungary, with special regard to their participation in legislation, 253, in András Patyi, Ádám Rixer (eds.), *Hungarian public administration and administrative law* (Passau, Schenk Verlag, 2014).

[36.](#) Boda, *supra* n. 6, at 18.

[37.](#) Norbert Kis, The Quality of Governance and its Assessment, in Krisztián Kádár (ed.), *Good governance: international dimensions*, 71 (Budapest, National University of Public Service, 2015).

[38.](#) Kis, *supra* n. 37, at 71.

[39.](#) Boda, *supra* n. 6, at 18.

[40.](#) Gerald E. Caiden, Undermining good governance: corruption and democracy, 5 *Asian Journal of Political Science*, 1–22 (1997). [10.1080/02185379708434101](#)

[41.](#) However poverty may also lead to corruption. Jonada Tafa, Examining the relationship of Corruption with Economic Growth, Poverty and Gender Inequality Albanian Case, 192–193, 1 *European Journal of Social Sciences Education and Research* (2014).

[42.](#) Komáromi, *supra* n. 7, at 112.

[43.](#) Komáromi, *Ibid.* 112.

[44.](#) Komáromi, *Ibid.* 112. According to Komáromi direct democratic decision-making processes can enhance transparency from many aspects. Compared to representative decision-making, where a significant part of the process runs behind the scenes – in hidden debates of party boards, members of the coalition, experts, interest groups and commissions – the steps of direct democratic actions are much more transparent. Peter Müller, *Elemente direkter Beteiligung auf Bundesebene: Ein Plädoyer für mehr Demokratie in der aktiven Bürgergesellschaft*, 736, 733–744, in Stefan Brink, Heinrich Amadeus Wolff (eds.), *Gemeinwohl und Verantwortung: Festschrift für*

Hans Herbert von Arnim zum 65. Geburtstag (Berlin, Duncker & Humblot, 2004), cited by Komáromi, *supra* n. 7, at 112. footnote 20.

45. Boda, *supra* n. 6, at 18.

46. Boda, *Ibid.* 17.

47. Boda, *Ibid.* 17.

48. Kis, *supra* n. 37, at 45.

49. See some of these definitions: Péter Váczi, The institution of good administration in the Council of Europe, 1–2. https://www.law.muni.cz/sborniky/cofola2008/files/pdf/sprava/vaczi_peter.pdf (accessed 5 January 2016).

50. European Union Charter of Fundamental rights, Art. 41. It is also important that the effects of the principles of ‘good governance’ on administration appear in a legally relevant form in the Charter of Fundamental Rights of the European Union (Art. 41), but are detailed only in the ‘European Code of Good Governance’. The Code basically covers the bodies of the European Union but through the European Administrative Area it has also ‘sneaked into’ the public administration of member states. Rixer, *supra* n. 6, at 121, footnote 360.

51. This is an evidence of the existence of a common European background in relation to administrative procedure and good administration. Chiti, Mattarella, *supra* n. 11, at 139.

52. Eva Nieto-Garrido, Isaac Martín Delgado, European administrative law in the constitutional treaty, 86 (Oxford, Hart, 2007), cited by Chiti, Mattarella, *Ibid.* 139, footnote 14. However, it is unavoidable, that the concept of good administration keeps seeping into national law through the work of domestic court.

53. Recommendation CM/Rec(2007)7 of the Committee of Ministers to member states on good administration. The Council of Europe has been active in the field of good administration, and started its work in the sphere of administrative law already in 1977 when its first resolution on the Protection of individuals with regard to actions of administrative authorities was issued. (Adopted by the Committee of Ministers on 28 September 1977

at the 275th meeting of the Ministers' Deputies). Although in its text there is no specific reference to the term 'good administration' either, but there are a number of principles designed to achieve this end. Chiti, Mattarella, *supra* n. 11, at 138.

[54.](#) Kis, *supra* n. 37, at 45. For the recent development of transparency regulations in Hungary see Kis, *Ibid.* 73–74.

[55.](#) These requirements of the formal rule of law have been interpreted by the Hungarian Constitutional Court in many decisions [56/1991. (XI. 8.) Constitutional Court Decision, ABH 1991, 454, 456; 8/2011. (II. 18.) Constitutional Court Decision, ABH 2011, 49, 79]. See András Patyi, András Téglási, The constitutional basis of Hungarian public administration, 205, in András Patyi, Ádám Rixer (eds.), *Hungarian public administration and administrative law* (Passau, Schenk Verlag, 2014).

[56.](#) Chiti, Mattarella, *supra* n. 11, at 138.

[57.](#) Chiti, Mattarella, *Ibid.* 138.

[58.](#) Jan Klabbers, Anne Peters & Geir Ulfstein, *The Constitutionalization of International Law*, 63 (Oxford University Press, 2009). [10.1093/acprof:oso/9780199543427.001.0001](#)

[59.](#) Although the whole practice of state power shall be bound to legal regulations and respect of the rule of law, there is a constant tension between direct democracy and rule of law. See Andreas Auer, *Direkte Demokratie und Rechtsstaat*, 31–42, in Giovanni Biaggini, Georg Müller, Jörg Paul Müller & Felix Uhlmann (eds.), *Demokratie – Regierungsreform – Verfassungsfortbildung: Schwerpunkte aus dem wissenschaftlichen Werk von René Rhinow dargestellt von Schülern, kommentiert von Freunden und Kollegen* (Symposium für René Rhinow zum 65. Geburtstag) (Basel, Helbing Lichtenhahn Verlag, 2009). From earlier literature see further Werner Kägi's basically theoretical paper preferring 'demokratischer Rechtsstaat' rather than 'rechtsstaatliche Demokratie': Werner Kägi, *Rechtsstaat und Demokratie (Antinomie und Synthese)*, 107–142, in *Demokratie und Rechtsstaat: Festgabe zum 60. Geburtstag von Zaccaria Giacometti* (26. September 1953) (Zürich, Poligraphischer Verlag, 1953); and Hans Schneider's work which comes to a negative evaluation of direct democracy on the basis of practical experience: Hans Schneider,

Volksabstimmungen in der rechtsstaatlichen Demokratie, 155–174, in Otto Bachof, Martin Drath, Otto Gönnerwein & Ernst Walz (eds.), *Forschungen und Berichte aus dem öffentlichen Recht: Gedächtnisschrift für Walter Jellinek*, Band 6 (München, Günter Olzog Verlag, 1955); cited by Komáromi, *supra* n. 7, at 111, footnote 15.

[60.](#) Klabbers, Peters & Ulfstein, *supra* n. 58, at 63.

[61.](#) Anthony Wilfred Bradley, Keith D. Ewing, *Constitutional and administrative law*, 105 (12th ed., London and New York, Longman, 1997).

[62.](#) Theodore Fortsakis, Principles governing good administration, 11, *European Public Law*, 207, 217 (2005).

[63.](#) According to László Trócsányi a possible justification for the denomination ‘Basic Law’ in lieu of ‘Constitution’ is that a reference to the historical constitution appears in the text of the Basic Law and the constitutional legislator intended to declare in the Basic Law that Hungary honours the achievements of the historical constitution and the Holy Crown, which embodies the constitutional continuity of Hungary’s statehood and the unity of the nation. Trócsányi’s opinion is that, by applying the denomination ‘Basic Law’, the constitutional legislator indirectly declared the importance of the achievements of the historical constitution, which enables the judicial bodies to make references thereto. László Trócsányi, *The Creation of the Basic Law of Hungary*, 10, in Lóránt Csink, Balázs Schanda & András Zs. Varga, *The Basic Law of Hungary: A First Commentary* (Dublin, Clarus Press, 2012).

[64.](#) The previous constitution of Hungary was originally adopted in 1949, during the Soviet occupation of Hungary. In 1989 during the change of the political system the legislature approved a total amendment of the constitution, though formally (de jure) Hungary remained the only one among the former post-socialist countries that had not adopted a new constitution after the fall of Communism, since 2011. In spite of these, we refer to the Hungarian constitution since 1989 as a new one, because in the sense of its content, it became a ‘rule of law constitution’. Patyi, Téglási, *supra* n. 55, at 205.

[65.](#) About the methods of how the Constitutional Court of Hungary handled the adoption of the new constitution and how the new constitution influenced the protection of basic human rights in the jurisprudence of the Constitutional Court see thoroughly: András Téglási, The Protection of Fundamental Rights in the Jurisprudence of the Constitutional Court of Hungary After the New Fundamental Law Entered into Force in 2012, 77–93, in Zoltán Szente, Fanni Mandák & Zsuzsanna Fejes (eds.), *Challenges and Pitfalls in the Recent Hungarian Constitutional Development: Discussing the New Fundamental Law of Hungary* (Paris, Éditions L'Harmattan, 2015). [10.1556/2052.2016.57.2.7](#)

[66.](#) The first chapter of the Hungarian Fundamental Law is identified as National Avowal. According to László Trócsányi the National Avowal is more than a preamble as a conventional element of national constitutions. In its content it resembles a festive declaration, but it does not place emphasis on the celebratory statement of the rights of the individual. Trócsányi, *supra* n. 63, at 10.

[67.](#) Kis, *supra* n. 37, at 34.

[68.](#) The Hungarian government has been received severe international criticism for violation of rule of law standards since the constitutional process for the new fundamental law started in 2011. However, according to Norbert Kis, the government has the power, depending upon its political/parliamentary strengths, to amend the constitutional conditions of the rule of law. Kis, *supra* n. 37, at 49.

[69.](#) The Fundamental Law regulates due process regarding administrative and judicial proceedings in two separate articles: XXIV and XXVIII; Art. XXIV para. 1 fills a lacuna uncovered by the practice of the Constitutional Court by the formulation of the right to fair administration. This adds a general meaning to the right to and requirement of a due process and the elements thereof, exceeding the range of criminal procedures. This right has not been mentioned in the Constitution in relation to administrative proceedings, but the Constitutional Court derived it from the right to a fair and impartial court hearing and the procedural guarantees emerging from the notion of rule of law. Zsolt Balogh, Barnabás Hajas, *Rights and*

Freedoms, 95, in Lóránt Csink, Balázs Schanda, & András Zs. Varga, *The Basic Law of Hungary: A First Commentary* (Dublin, Clarus Press, 2012).

70. Balogh, Hajas, *Ibid.* 96.

71. Balogh, Hajas, *Ibid.* 96.

72. The set of Hungarian reforms dubbed the Magyary Programme are a clear, and furthermore, somewhat extreme example of centralization. Gellén, *supra* n. 1, at 67–68.

73. All of these concepts are aimed at bettering state activities and functions while complying with the requirements of the effective and efficient administration under the rule of law.

74. Rixer, *Ibid.* 52.

75. Tamás Kaiser, Introduction, in *Good State and Governance Report 2015*, 1, http://ati.uni-nke.hu/uploads/media_items/good-state-and-governance-report-2015-final.original.pdf (accessed 5 January 2016).

76. Rixer, *supra* n. 3, at 135.

77. Rixer, *Ibid.* 139.

78. László Konrád, Reorganization of the Hungarian Regional Public Administration – in the Centre: District Offices, 222, in Csilla Gömbös, János Kálmán & Barna Arnold Keserű (eds.), *Global and Local Issues from the Aspects of Law and Economy* (Győr, Univeristas Nonprofit Kft. – Batthyány Lajos Szakkollégium, 2014), <http://blszk.sze.hu/images/Dokumentumok/kiadv%C3%A1nyok/tanulm%C3%A1nyok/B6tet/ny%C3%A1ri%20egyetem%202014/konr%C3%A1d.pdf> (accessed 5 January 2016).

79. According to Art. P) of the Fundamental Law of Hungary natural resources and the cultural assets shall form part of the nation's common heritage, the State and every person shall be obliged to protect, sustain and preserve them for future generations.

80. Magyary Programme (2012) 6.

81. The importance of the adequate human resources cannot be over-emphasised. The creation and the sustainability of good governance, good

administration and the rule of law is inconceivable without well trained, well positioned and well educated public servants – being law enforcement officers, officers of the army, civil servants, or only employees of the government. This gives one of the reasons for the missions of the National University of Public Service.

[82.](#) The UN member states are committed to an open, equitable, rule-based, predictable, and non-discriminatory multilateral trading, and financial system.