NEW CHALLENGES FOR PUBLIC ADMINISTRATION
AT THE AGE OF THE RIGHT TO THE INTERNET ACCESS

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Abstract: *The paper discusses the challenges, benefits, and risks of the digitization in public services; argues the internet access right as a fundamental human right and the obligation of a state to provide digital services in the public administration; points out the main tasks of public administration when introducing the principles of good governance; addresses the development of the mentioned principles in the European public space as well at the examples of the Czech Republic. The authors critically describe evaluation methods of digitized public administration and e-Government, including the general model of user acceptance of information technology and benchmarking within the global worldwide information society. The paper highlights practical examples of digitization of the public space in the European Union and in the Czech Republic. The paper concludes with the issues of the state obligation to cover gaps between the legal and economic demand for digitization and provision of digital public services and needs of communities and individuals. The authors use the economic approach to examine legal issues of digitization in public administration. The comparison of the European legislation and Czech national legislation form the primary methodology of the interpretation of the rights of users as well as the obligations of the public administration. Practical examples, figures and tables highlight the argued issues.*

Keywords: *Digitization, Digital Single Market, Good governance, Human rights.*

1.   INTRODUCTION

The search for the best solutions for public administration management is a dynamic, open and permanent process. Finding the optimum model of the public administration management and functioning is a very complicated issue of current interest, which both the Czech as well as international administrative and legal study and practice has been, and still is, dealing with. This dynamic and ongoing process, during which, concerning the evolution of the society, state, and law in time and space, the economic, social and other aspects, the most appropriate form of public administration performance and its implementation is being searched for, including an efficient management model that would optimally fulfil all basic objectives and functions of public administration.

The path to forming the so-called Good Governance in terms of the final requirement for the dynamic behaviour of public authorities leads through the establishment of individual partial principles proceeding from the mutual relations between the government and the citizens, the general public and clients of the provided public services. The following need to be understood as the good governance basic values: access to justice, respect for the due process of legality, respect for human rights and democratic values, transparency, openness, participation, tolerance of diversity, environmental protection, the sustainability of results, and professionalism of public services (Agryriades, 2007, p. 22). These individual components of a "good governance" are

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the pillars of European administrative law. Application of these basic principles during the performance of public administration illustrates the shift from the traditional management models to a decentralized model. Concurrently, it influences the modernization processes, which are then inevitably directing their focus on the increase of quality of the provided services and further strengthening of the "citizen participation" principles.

Many international documents establishing the direction of development for the public administration within the European Administrative Space in this context acknowledge the enormous potential of the information and communication technology (ec.europa.eu). After all, that has always been one of the tools, which can make the performance of public administration more efficient. At present, when information technology plays a part in our daily lives and presents an aspect affecting all activities and policies, the demand for e-services is logically increasing both from the citizens, scholars, students and business entities. The Information Age thus inevitably challenges the public administration with new requirements. However, at the same time, it enhances its performance with the new quality in the form of modern electronic tools offering a variety of methods and techniques, which can be used in the process of its optimization, within the meaning of administrative work simplification and automation, acceleration and simplification of internal and external communication, lowering administrative costs and reduction of administrative risks.

2.   E-GOVERNMENT CONCEPT AND GOALS
WITHIN THE EUROPEAN ADMINISTRATIVE SPACE;
E-GOVERNMENT EVALUATION METHODS

Reflections on the use of information and communication technology in the sphere of public administration are summarized under the terms e-Government or e-Governance. Nowadays, these terms have become a part of the modern society newspeak to such extent, that there may not even be any attempts made to find an appropriate translation for them in any language. These terms can be defined as utilization of information and communication technologies (i.e. long-distance computer networks, Internet and mobile technologies, including PDA, SMS text messaging, MMS, Skype, WhatsApp as well as biometric identification systems or search systems), by the public administration to provide information and public services to the general public. Their ability to transform the relations between the public administration and the public is then considered to be a fundamental feature of these technologies. European Commission speaks of "*utilization of information and communication technology in the public administration intertwined with organizational change and new skills to improve public services and democratic processes, as well as to enhance the support of public services*" (European Commission, 2003. p. 4.). The Digital Agenda for Europe as a strategic document defining tasks in the sphere of e-Government for all EU member countries to be fulfilled by 2020 no longer sees information technology as „simply" a significant tool for improving the performance of public administration but understands it as a common part of societal life (digital_agenda_en.pdf, 2014, p.1-8)

There are two essential dimensions to the employment of eGovernment methods into practice. First, this means the transition from the traditional means of communication to those enabling network communication and digital data processing (e.g. Electronic Record Management, central registers, online filing, online access to information). Secondly, methods, which are primarily aiming at the increase in quality of the performance of administration, must be introduced. At the same time, the character of the administration, respectively, the way administrative acts are done, should change.

In connection with the introduction of information technology to public administration, the applicability of Davis's general technology acceptance model is often referred to, which is based on the so-called purpose-driven action (DAVIS, 1983. pp. 319-340). According to that model, an individual's attitude to the use of information technologies, and come to that, the actual use thereof, depends primarily on the user's perception of their usefulness and ease (complexity) of work. Rogers' diffusion of innovation theory (CARTER, BÉLAGER, 2005, p. 5-25) explains the success of adopting new technologies in real life in a similar way, and according to him, the following factors are the decisive ones:

a) the relative advantage over the previous technology;
b) the complexity of technology from the user's point of view;
c) compatibility with the needs of those who are to use it;
d) credibility and security.

It is then quite logical that the benchmarking the method used in EU for evaluation of the digital services development in individual member states is based on the assessment of 20 essential public services – 12 for the citizens and 8 for the businesses.

Table 1. Evaluated digital public services overview

Services for citizens	Services for businesses
• Filing an income tax return for natural persons; • Job search services; • Application for social security benefits; • Application for and the issue of personal documents (identity cards, passports); • Registration of vehicles; • Application for building permit; • Reporting an offence to the police; • Public libraries services (online catalogues enabling reservations, notifications); • Obtaining so-called personal certificates (e.g. birth certificate, marriage certificate) or copies thereof; • Possibility to send an application to the university; • Notifications related to relocation; • Healthcare services.	• Social allowances for employees; • Filing an income tax return for legal entities; • Filing of Value Added Tax (VAT); • New company registration; • Submission of data for statistical offices; • Customs declaration; • Permits regarding the environment; • Public procurement (i.e. mainly public contracts).

Source: www.ec.europa.eu/information_society/eeurope/i2010

For this assessment, we can define a digital service can as electronic activity satisfying particular collective needs. Its core lies in the remote access and utilization of long-distance electronic connection for obtaining a specific service. It should bring benefits to both interacting parties, i.e. to the user, as well as to the service provider. From the public administration authorities' point of view, these benefits can include lower number of employees, cost physical premises reduction, acceleration and simplification of the service delivery process, limited contact with the service consumer, guarantee of compliance with regulations and procedures, higher service consumer satisfaction and reduction in the error rate of the provided data. For the public administration services recipients, this means, that the user saves time with the increasing the quality of selected service and remote access.

Within the abovementioned benchmark, two fundamental aspects of the individual services are assessed by the European Commission (the so-called *5-stage maturity model)*. The first one is *availability*, which determines whether the service is provided electronically, while this can

exist even in the form of instructions on how to deal with it. *Sophistication* is the second aspect, assessing the maturity of the given service according to the following levels:

- 1st Level – Information – there is at least a guideline on how to deal with the given service on the Internet;
- 2nd Level – One-way interaction – a form required for the provision of the service is available for download on the website;
- 3rd Level – Two-way interaction – electronic forms are available on the website with the possibility to fill them in and submit online;
- 4th Level – Transaction – represents the full provision of the given service in an online form, i.e. filling in and sending the required form (application), including the payment of administrative fees, enclosing attachments. This level means a maximum attainable evaluation for some services;
- 5th Level – Targetisation (or pro-active e-Government) – sending already pre-filled forms – used for the services such as tax return, census, or other statistical reports. This method requires the utilization of data from registers.
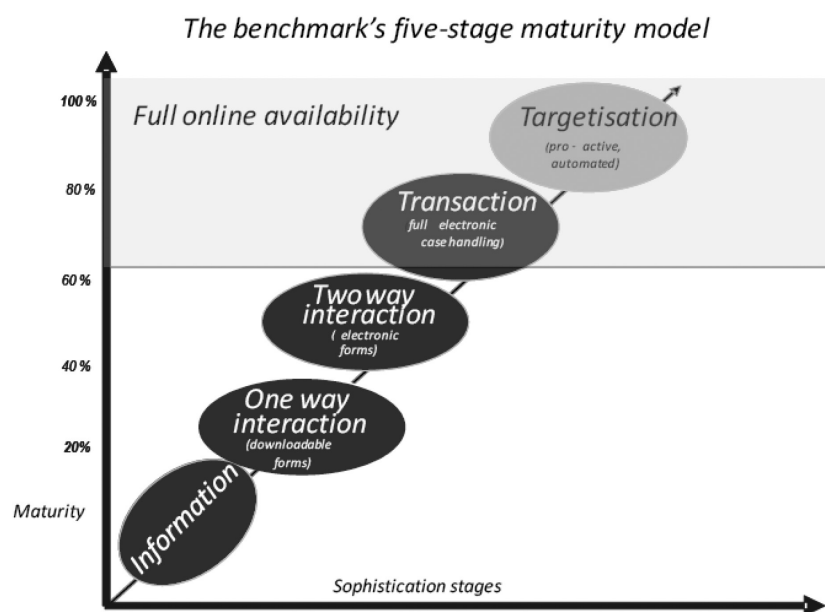

Figure 1. Maturity model and its specific scale
Source: *EU: eGovernment Benchmark Survey 2009.*

The above-stipulated objectives, together with evaluation reports and outcomes of scientific research projects and studies focused on the process of public administration digitization in a given country, should play a key role when it comes to the question of what tools and for what purposes should be implemented in the public administration.

3. OUTLINES OF E-GOVERNMENT DEVELOPMENT IN THE CZECH REPUBLIC

The path to the development of e-Government tools and methods in the area of public administration in the Czech Republic (CZ) had started in the early 1990s, when the technical conditions for the introduction of modern information technologies, which were previously available to a relatively small group of people, were created. In the beginning, modernization processes were characterized by a lack of knowledge, missing information and inadequate coordination during

the introduction of information technology into public administration practice. It was a trial and error rather than a strategic or systemic approach. The adoption of the strategy document National Information Policy - the Road to the Information Society (NIP) in 1999 presented a significant breakthrough in the sphere of information policy coordination, which was followed by the National Information Policy Action Plan with an outlook to the end of 2002. These activities were closely connected with the EU accession of the CZ. From main activities envisaged, we can mention that by 2002, operation of the selected digital public administration services was to be launched, aiming at minimum 10% of public administration interactions being made by digital means. In connection to the meeting of the set goals, an Act No. 365/2000 Coll., on Public Administration Information Systems was passed, establishing the Office for Public Information Systems. Creation of the Public Administration Portal was included among the main tasks of this office. However, this office was dissolved in 2002, and the scope of its authority was transferred to the Ministry of Information Technology in 2003. This department then became the chief coordinator of the development of the public administration digitization. After it has been dissolved, the tasks related to e-Government were taken on by the Ministry of Interior. Probably the greatest achievement of the Ministry of Information Technology was the launch of the Public Administration Portal on October 6, 2003. In the following years, the attention focused on direct access to information, also in connection to the e-Europe+ initiative, which included European standards in the area of universal electronic access to basic public services. In this context, in July 2004 the Ministry of Information Technology issued a document entitled "Best Practice - Rules for Accessible Website Creation" with recommendations regarding the creation of public administration websites. It defined the conditions for publishing information by remote access. Further, by the end of 2003, the Ministry of the Interior was to ensure the digitization of municipalities and by the end of 2006, the digitization of regions. These requirements were reflected in the Amendment to the Act on Public Administration Information Systems, which was passed to take care of the Public Administration Portal services development, of issuing verified outputs from the public administration information systems by a wider range of entities (e.g. municipalities, notaries, the Chamber of Commerce, postal services provider), as well as the availability of information on the individual public administration authorities websites. The said task, however, also required stricter requirements for the management of public administration information systems. In practice, this showed in the authorities' obligation to prepare a digital concept and operational documentation, the obligation to certify the systems, to introduce security measures. According to Act No. 227/2000 Coll., on Electronic Signature, e-filing offices became a mandatory part of the e-Government practice for the public authorities.

The procedural legislation underwent the required changes, too. In public administration, this meant namely the Act No. 500/2004 Coll., the Administrative Procedure Code, which brought digital records and files, remote access to the office notice board, electronic delivery, digital version of decrees and digital access when consulting a file. This regulation also triggered questions related to electronic document management across public administration entities. The so-called data boxes formed an essential innovation in the interaction between the citizen and public authorities. These were enshrined in the Act No. 300/2008 Coll., on Electronic Acts and Authorized Conversion of Documents. Concerning the digitization of public administration, it should be emphasized that this Act puts documents in written and electronic form on an equal footing and decrees data boxes to be the primary method of delivery of administrative and judicial documents. Legal entities registered in the Commercial Register, public authorities, lawyers, notaries are since that time legally obliged to receive public documents through data boxes. In 2011, the Ministry of the Interior started to work on the E-collection and E-legislation

projects, which were expected to be launched in early 2014, however, these projects are still in progress. Besides the government and central levels, attention was paid to the digitization processes in the area of digitization of municipalities and regions, i.e. the area of local and regional public administration. The Information Technology Commission was established under the Association of Regions in the Czech Republic, which later guaranteed the ePusa project (electronic portal for regional local administration) serving as an information point about the municipalities and territorial division of regions, including the individual administrative offices, not only for the regional local administration employees but also for the general public. In 2011, methodical guidance on the creation of municipal websites was created with the support of the Ministry of the Interior Department of Public Administration Information Technology. Subsequently, the EVA project (digitally friendly administration) was then aimed at the local (municipal) level. Its goal was to publish contact information from individual municipalities, both for the purposes of informing the general and business public, as well as for the purposes of solving crisis situations. The EVA project can be seen as the forefather of the present CZECHPOINTs, which have become a standard part of the daily performance of administration with positive responses from the citizens and civil servants alike.

Towns and Municipalities portal (www.mool.cz) has been running online since 1996. This portal includes basic information about regions, districts and municipalities, who can establish an official website here free of charge and publish their official notice board documents through the content management system.

4.   CURRENT TRENDS AND ISSUES IN THE PRACTICE AND RESEARCH

In July 2016 the United Nations Human Rights Council adopted Resolution No. 38, the promotion, protection and enjoyment of human rights on the Internet. Though the resolution is not legally binding, the discussion on the human right to the access to the Internet and freedom of the use of the public virtual space has started. The EU has adopted many documents aiming to implement and support the Digital Single Market in public services and administration to create a modern and sustainable digital society respecting the rights of citizens (see https://ec.europa.eu/digital-single-market/en). The Czech Republic has adopted the Act on Digital Services No. 12/2020 Coll. This Act supports the citizen's right to get the electronic service from the public administration. The citizen is entitled, not forced, to use public services via the Internet. The digitization in the public administration contributes to the development of the rule of law and the state in action. General knowledge of modern technologies among both public officers and the user of their service is perfect. However, the digitized legal action must be very often confirmed either personally or by the legalized signature on a paper document. The Act on Digital Services aims to unify the fragmentary and diverse legal regulation and administrative practice because they mostly depend on local particularities and habits. Public servants very often do not use the same and unified approach to the digital service delivered to the public. Although the level of people's awareness about the possibilities of electronic communication with public authorities is increasing with the development thereof, and the tools through which this communication can be executed are multiplying. At the same time, we can speak about sufficient Internet availability for both the public administration authorities as well as its recipients, this form of communication is, at least from the perspective of the majority of ordinary citizens in the Czech Republic, overshadowed by persisting stereotypes. Because it is not meeting their subjective concepts and needs, it remains unused by them. The compulsory digitization may also bring the loss of a human face and very often could diminish human interaction in public

administration. There is the threat of possible social exclusion of vulnerable groups, depending on public services. Users of digital public services might be digitally illiterate, or they do not have appropriate access to the internet. The users also may not be able to operate modern technologies because of age or/and handicap. In general, however, the current legislation has been so far characterized by its fragmentation and particular focus, it creates a space in which several promising projects with considerable potential is starting as mentioned above.

Nevertheless, these are still wholly independent projects, which are difficult to apply in other areas of public administration. In this regard, there is also a topic for discussion about how much the principle of voluntariness should be suppressed when it comes to the digitization of public administration, and in particular the electronic communication. In this context, it can be postulated that the pressure exerted by newer laws regarding the mandatory use of electronic tools, without reflecting the real needs and wishes of their users, can often be counterproductive. The same applies to the speed, or, respectively, appropriate timing of the new e-tool implementation in practice. In this context, it is quite desirable to focus more on the quality when it comes to the digitization of public administration in the Czech Republic.

5.   CONCLUSION

The Czech Republic is noticeably behind some European countries in up-to-date and most in-demand digital services provided to citizens. The COVID- 19 crisis proved that the state and its bodies, like for example social services, social security or public schools could switch to the underlying digital communication, but not to the long-term service provision on the digital basis. For the future development of e-Government in a broad sense, the state, when introducing new and developing existing electronic tools and services, should much more reflect the needs of the public administration recipients. The topical development showed that the services must meet the needs of daily life. Simultaneously, it should endeavour to overcome the existing barriers in electronic communication, i.e. to concentrate on informing people about the possibilities and ways in which they can interact with the public administration authorities electronically. Many of the existing barriers, concerning the current level of information technology development, are mostly psychological, and based on the of old practices and a user-unfriendly environment, rather than on technical or legal obstacles. It is necessary to apply the information technology potential in the external communication of public administration and not only as a tool of internal communication or management. Indeed, we can speak about genuine digital public administration only in the case that all the above-mentioned barriers are removed, and public officers, teachers, students and users generally no longer see the digitization as a „complementary or even nagging" service. Only then can be the much-promoted motto of the Czech e-Government fulfilled: „Data, not citizens will circulate."

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