

Pilot projects
in Public Administration Management

Summary of a Research
Vol. I.

Pilot projects in Public Administration Management

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at Pázmány Péter Catholic University
Faculty of Law and Political Sciences

Volume I.

edited by:
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I. PREFACE

About the research

A) Objective and methodology of the research

Administration and innovation are closely linked. Public administration is often referred to as “social engineering”, however, natural and social sciences are rarely converge. This research centres on *an innovative device*. It is but one of many approaches, bearing in mind that all approaches may yield advantages and exhibit limitations at the same time. Professors, senior researchers and doctorate students worked together for almost two years to find the answer whether it is possible “to experiment with” public administration or to “try out” any instrument to be sure it is safer or cheaper in general implementation. What was the key of success of the Canadian integration programme or the Spanish governmental telework pilot? And what was the reason of the failure of the regional self-governing pilot? The first pilots of Hungary were organized in the late 30s when the administration had to be a partner to development. But why has it been forgotten since then? The answers we found are unique in the literature for the time being, as no such cohesive research available on usage of Pilot projects in Public Administration Management.

Modern administrative innovation emerged in the first half of the twentieth century, when the instruments of management and development arose (see TAYLOR, FAYOL). However, with the Millennium the information and communication environment underwent such rapid development that these two elements came to dominate the fields of public administration and administrative innovation.

This research does not deal with the traditional path of administrative development (see POSDCoRB). Today, more and more unconventional instruments (predominantly of Anglo-Saxon origin) are employed in public administration, rooted in sociological or natural science. This trend may have repercussions beyond sheer technological change (IT-

boom) amounting to the evolution of a new role for the state as well as the concept of good governance. An important paradigm of the currently developing Neo-Weberian model is the direct involvement of citizens in decision-making processes within the framework of representative democracy.¹ Development in technology and the changing image of the state makes it possible for the public sector to use innovative “communicative” and “engineering” instruments.

“**Communicative**” instruments may be (based on an increasing number of participants):

- **Brainstorming**, which is perhaps the best-known small-scale tactical or strategic workshop, of short duration and with generally restricted participation;
- **Transition Arena**² addressing medium and long-term problems, where invited participants of various disciplines establish and schedule (transition agenda) a vision on a specified issue. Selection of invitees may depend on their role in public life (government, academia, civil society or economic life), competence (strategic thinking, good vision of systems or good communication skills) and function (manager, strategist, networker, decision-making professional, etc). The subject of the Arena is typically the formulation of solutions regarding a complex social problem.
- **Open Space Forum**, which is an open, 1-3 day event, covering the largest number of participants (up to 1000).³ The director organizing the Open Space Forum determines a broad, strategically important topic of discussion, in which the participants themselves

¹ G. FODOR GÁBOR – STUMPF ISTVÁN: Neoweberi állam és jó kormányzás (Neoweberian State and Good Governance). *Nemzeti Érdek* 2008/3, 16. and Tiina RANDMA-LIIV: *New Public Management versus Neo-Weberian State in Central and Eastern Europe*. Tallin, 2008. http://iss.fsv.cuni.cz/ISS-50-version1-080227_TED1_RandmaLiiv_NPMvsNWS.pdf (10.01.2013)

² This notion comes from „transition area”, which is a water-engineering phenomenon, a place where the seawater and sweet water meets. A project organized at such place in the Netherlands was called “transition arena”, which was an “arena” where different professions, talents met to solve a problem. Arwin VAN BUUREN – Derk LOORBACH: Policy innovation in isolation? - Conditions for policy renewal by transition arenas and pilot projects. *Public Management Review* 2009/11, 379. and Rutger VAN DER BRUGGE - Roel VAN RAAK: Facing the Adaptive Management Challenge: Insights from Transition Management. *Ecology and Society*, 2007/12. <http://www.ecologyandsociety.org/vol12/iss2/art33/> (22. 08. 2013.)

³ <http://www.openspaceworld.org/> (22. 08. 2013.) Harrison OWEN: *Open Space Technology: A User's Guide*. Berrett-Koehler, 1997.

create the agenda of parallel workshops, meetings and events. This spontaneous, but also coordinated large-scale brainstorming tool is rarely used in the public administration, instead, it is mainly employed for the preparation of strategic plans.

An alternative form of “**Engineering**” tool is the pilot project, which is also called “prototype”, or “model experiment”, etc. This approach goes beyond the “Communicative” type instruments, by “testing” the question at issue in real-time. Models are commonly used in engineering and in natural science-related activities, such as pharmaceuticals, information technology, or even the film industry. Using natural science tools in social sciences is not surprising since their sharp separation is becoming outdated with the changing methodology.⁴ In our research the starting point was a hydraulic engineering pilot system, the (physical) “small scale experimental model”.⁵ This tool has a broad literature, by which its means and aims can be understood as well as its role in this research.

Having reviewed the “small scale experimental model” experiment, we observed many similarities can with the public administrative pilots. Still, water-engineering methodology cannot be applied completely in the public sector. The main differences between engineering and social pilots are the following:

- The “small scale experimental model” experiment always refers to a physical (predictable) reality, which can be produced even under laboratory conditions. The administrative pilots, by contrast, are experiments carried out in the actual social environment, where many factors of uncertainty arise, such as human diversity, social diversity, or external (geographic, climatic) factors, etc..
- The applicability of experiments is more limited in public administration than in water-engineering. Society definitely forms part of the experiment, where the protection of rights must be

⁴ András Zs. Varga refers to Heisenberg and the mathematical theory that goes beyond its borders and reach social science (John Lukács) and economics (Soros György) is. See András Zs. VARGA: A jogrendszer és a jogalkalmazás határozatlansága és nem-teljesége. (Uncertainty and incompleteness of law system and jurisdiction) *Jogtudományi Közlöny*. 2013/3. 111.

⁵ Our starting point was a water-engineering literature on modelling and experiments in hydraulics. MOSONYI Emil: *Hidraulikai hasonlóság, a kismintatörvények és a kísérletek értékelése, a várható eredmények*. Edited: Zoltán HANKÓ. Felsőoktatási Jegyzetellátó Vállalat, Budapest, Kézirat, 1955.

guaranteed. (For further details see VARGA Zs., and CSINK–KURUNCZI–VARGA studies).

Nevertheless a “small scale experimental model” can provide useful experiences for the planning of public administration:⁶

- A “small scale experimental model” can provide useful information at creating of modifying a planned system.
- Translating the experiment into reality is not possible due to its specific genre, but it can be done under isolated condition. Experimentation is definitely an intervention in processes, but the real environment is only observable.
- A “small scale experimental model” is an appropriate instrument in case you want answers to questions raised within a system.
- Only circumstances similar to reality can be observed on a “small scale experimental model”. When calculating the results, distortions in the pattern must be taken into account.

B) Development and results of the study

The devastating II World War affected every field of social and scientific life in Hungary as well as the rest of Europe. The renown Hungarian Institute of Administrative Sciences conducted fruitful work on the matter of defining the dogmatic and practical basis of pilots in the field of administration. Our research is more than a tribute to this effort; we intend to continue in the footsteps of the Institute and carry the research further.

The Ereky Research Group studied the pilot-technologies of foreign governments and international organizations, using comparable criteria, thus exploring the limits, method and standards of pilots in the field of administration. We structured these Volumes, integrating foreign and Hungarian literature and practice, to serve as a textbook and a manual at the same time, providing answers to the most detailed and sensitive questions. As a result, we are proud to say, that we have scrutinized the subject matter from all aspects.

The researchers processed pilot-surveys presented hereafter in Volume II. Furthermore, we examined other pilots as well, which are not presented in-depth but used for the synthesizing chapters instead.

⁶ Experience means “knowledge” and not “direct applicability”.

The following experiments were used to control our preliminary selection:

- La Trobe University’s tutor programme (2012)⁷
- Minneapolis K-12 school iPad learning pilot (2012)⁸
- Chess-teaching pilot in a Bucharest Public School (2012)⁹
- Scottish Vessel Monitoring System pilot project (2011)¹⁰
- Reintegration Pilot of the State Criminal Institute of Hungary (2010)¹¹
- San Diego “Family Nature Groups Pilot Project” (2009-2012)¹²
- Gouwe Wiericke (the Netherlands) water pilot (2004)¹³
- Monheim Children Protection Pilot Project (2003)¹⁴
- United Nations’ pilots (innovation programmes) by DESA (2003 to 2006)¹⁵

⁷ Bret STEPHENSON: *A progress report on La Trobe University’s academic advising pilot project: Formalising and normalising the advising of first year students.* http://www.fyhe.com.au/past_papers/papers12/Papers/7B.pdf (01.08.2013)

⁸ Chientzu Candace CHOU – Lanise BLOCK – Renee JESNESS: A case study of mobile learning pilot project in K-12 Schools. *Journal of Educational Technology Development and Exchange*, vol 5, No 2, December 2012, 11-26.

⁹ Bilghin BAUBERG – Silviu APOSTOL – Petru Iulian FLESNER – Fotinica GLIGA: *Chess in school – a blended leading pilot project.* Conference proceedings of „eLearning and Software for Education” www.cceol.com 1/2013, 330–225.

¹⁰ Anne McLAY – Matt GUBBINS - Gareth JONES - Robert WARET - Elisa BARRETO – David BRUCE: *Mapping inshore Fishing activity to inform marine planning in Scotland: a pilot project using stakeholder data in the Pnetland Firth and Orkney waters.* ICES CM 2012/1:07. <http://77.68.107.10/MREP/Archive/01/documents/I0712.pdf> (01.08.2013)

¹¹ BARABÁS Tünde: Megbékélés és helyreállítás a börtönben? (Reconciliation and restoration in prison?) In: BARABÁS Tünde – FELLEGI Borbála – WINDT Szandra: *Felelősségvállalás, kapcsolat és helyreállítás.* P-T Műhely az Országos Kriminológiai Intézet megbízásából, Budapest, 2011. 23-62.

¹² Janice SWAISGOOD: *Family Nature Groups Pilot Project Report.* San Diego Children and Nature Collaborative, 2012. http://www.sdchildrenandnature.org/attachments/SDCaN_FamilieNatureGroups_Report_JSwaigood_21may12.pdf (01.08.2013.)

¹³ Arwin VAN BUUREN – Derk LOORBACH: Policy innovation in isolation? - Conditions for policy renewal by transition arenas and pilot projects. *Public Management Review* 2009/11

¹⁴ Annette BERG – Vanessa SCHLEVOGT: The „Mo.Ki. Monheim for Children” (Monheim für Kinder) Pilot Project. In: Gabriele WEIGT (ed): *Inclusive Early Childhood Development – an Underestimated component within Poverty reduction.* Essen, 2011. 94-100.

¹⁵ *Innovations in Governance in the Middle East, North Africa and Western Balkans – Making Governments Work Better in the Mediterranean Region.* Department of Economic and Social Affairs (UNDESA) New York, 2007. ST/ESA/PAD/SER/E.93.

– Pilot of the EU Commission on e-Procurement (1998)¹⁶

The **planning** stage of the research took off in January 2012, whereas the final Conference and the launch of the ensuing volume will take place in November 2013. First phase of the work began with scheduling and the assignment of research tasks in February 2012. The greatest achievement of the year was finishing the fundamental studies based on the approaches determined in advance. Each researcher selected either a foreign or a Hungarian pilot, and analysed it using the same method. Each study seeks the answer to the following questions:

First phase of the pilot: Scheduling

- Who is the principal? (e.g. government, local authority, civil society, academia etc.)
- Who is the developer? (e.g. administration, company, academia etc.)
- What is the principal's goal with the pilot?
- Which are the phases of development? (e.g. budget, schedule, personnel)
- Will legislation be necessary for accomplishing the goals set?
- What were the guarantees integrated in the pilot? (e.g. withdrawal, financial, accounting, etc.)
- *Second phase of the pilot: Accomplishment*
- Who is the executor of the pilot? What is their relationship with the principal?
- What is their work method? (e.g. structural, organizational, personnel, project assignment)
- What are the phases of accomplishment? How are the results evaluated?
- What are the monitoring tools used?

Third phase of the pilot: Evaluation / Monitoring

- What were the aspects for evaluating the results of the pilots?
- How were the conclusions made?
- Were the conclusions published?
- How were the results used in practice?

Halfway through the research on 25 June 2012 the research group held its first workshop (WS1). The topics were: state of each separate

¹⁶ Auke HAAGSMA: The European Pilot Project on Remedies in Public Procurement. *Public Procurement Law Review*, 1999/8. CS 25-33.

fundamental research and the discussion of further tasks. We invited two local authorities to the meeting, both of which were to participate in the pilot study in the concluding stage. The second phase of the research was planned to be a real-life pilot study of the research group. Holding a follow-up meeting proved to be necessary, due to the amount of open questions remaining from WS1. Thus, on 11 July 2012 the research group met again for the purpose of defining our own pilot and assigning the related tasks (WS1a). At WS1 the research group decided that our pilot would focus on the best practices of monitoring civilian waste management by the authorities. In the meantime, however, the regulation regarding local governments underwent immense changes, i.e. just in the middle of the research period (1 January 2013) the so-called district offices were established. Thus, the legal environment was no longer suitable for the pilot study we had planned for the spring of 2013. Finally, the research group decided to postpone the real-life pilot study.

The third phase of the research began with a workshop on 4 July 2013, in the framework of which the senior researchers presented their conclusions and results (WS2). The **synthesis**, published in Volume I., comprised four areas:

- Developing the standard model for pilot projects;
- Theoretical boundaries and limits;
- Role of legislation in pilot projects;
- Correlation between a pilot study and the design methodology.

Therefore, the research was empirical; we basically relied on the literature published on previously run and completed pilot studies. We intentionally selected representative pilots: both foreign and Hungarian, launched by the government and civil society. However, we did not restrict or focus to successful pilots. We will see that despite their unsuccessful termination, we still can think of these pilots as useful projects, at least in the sense that they revealed the difficulties involved in managing a pilot project.

Presentation of each examined model and the **conclusions** of the two-year-long research are presented in Volume II.

II. THE THEORETICAL MODEL OF PILOT PROJECTS IN PUBLIC ADMINISTRATION

Legal Limitations of Public Administrative Pilot Studies

András Zs. VARGA

Public administration is performed for fulfilling public goals defined in governmental decisions. Nowadays the abstract set of these public goals is the different legislative acts and other legal regulations (hereinafter: regulations), but applicability and adequateness of the different regulations is tested by their actual application. Frequent modification and amendment of regulations raise the presumption that their applicability and adequateness can be often questioned. There are several questions which should be answered before such a modification or amendment (or more generally, before any law-making process is started): *What?*, *Why?* and *How?* are some of the most important and inevitable ones.

Based on the answers some administrative or legal models may be drafted and – if possible – experimented. Usually the experiment means that a new regulation is entered into force, consequently the experiment is ‘saved’, in other words it is performed *in vivo*, undertaking all social risks of failure. If there is enough time, legal opportunity and political will the experimental application of a new regulation could be performed, this method is known as *pilot*. However one should know what do notions like model, experiment, pilot mean in public administrative context and which are the administrative (functional) or legal (formal) limitations of realizing of a public administrative pilot study (or pilot experiment).

Model is a notion and method applied in the field of science. Model is understood as an artificial and simplified transcript of the material reality assuming that its characteristic features are similar with the real

phenomenon. If this presupposition of adequacy is not false, results of studies on the model lead to a better understanding of material reality. *Experiment* is also coming from the world of sciences, it covers a set of measurements effectuated sometimes on real phenomena (*in vivo*), but more often within artificial, laboratory circumstances (*in vitro*). A simple definition of *pilot study* (or *pilot experiment*) taking into consideration our main topic may be the next: a pilot study is an *in vivo* experiment on a smaller scale, within limited territorial, temporal, population circumstances.

1.. Reasons and limitations of administrative pilot studies

For purposes of our research public administration is perceived as an activity of the executive power which has concrete influence on rights, duties, legal relations, behaviour of certain (identified) natural or legal persons. Public administrative activity covers all stages of decision-making and execution of formal decisions, influence on legal rule-making, application of regulations (administrative procedures), organising and controlling. When applicability of pilot studies is in question several dimensions of public administration may be examined: theory and practice, external or internal activities.

a) Within the different branches of theory of public administration role of models is unsophisticated. Every theoretical approach of public administration takes itself shape of a model hence it aims either a better understanding of an existing practice or thinking out hypotheses of a better practice. In both cases the nature of the theoretical description is other than practice as existing reality. Experiments concerning theoretical models are impossible, if a new model is transformed by codification into a legally binding regulation, it becomes reality consequently it loses its theoretical nature. The situation is the same if the topic of theoretical thinking is the model of modelling itself.

Perhaps this is one of the most significant differences between public and private administration. The primary goal of public administration is an effect with external direction, effect on the social relations outside the system of public bodies. Internal administration (self administration of public bodies with all of its particular aims as effectiveness, accessibleness, low costs etc.) is of secondary importance. The situation

is contrary in private administration what can be demonstrated by the example of a private corporation. The primary goal of a corporation – as a formal community of investors – is growth of profitability while the effective activity is only an instrument, consequently for investors the real products of the industry managed by the corporation (being these products old fashioned cars or novelties or simple bank-transactions) has hardly any importance. This is the reason of predilection of private administration to models and to their limited experimentation by pilot-studies. *Limitation 1: models evolved for the purposes of private administration cannot be applied fully and in every case to public administration otherwise public administration may lose its determination. Limitation 2: a theoretical model of public administration cannot be simply experimented, for the purposes of experiment the necessary legal preconditions should be granted, or in other words the experiment can be performed only as a pilot study.*

b) Within practical (acting) administration in external direction (measures or services of public authorities or other public bodies) legally binding rules (codes, regulations, principles) are limiting the opportunity of experiments or even pilot studies. No difference can be made in managing the administrative cases of persons in same situations. *Limitation 3: regarding formal administrative procedures pilot studies may be launched only in well defined sectors as special regulations for specific fields of administration (e. g. for emission of driving licenses or building permits of industrial edifices etc.).*

The other branch of acting administration in external direction, the delivery of effective services (e. g. public health care) gives more opportunity for pilot studies. *Limitation 4: when drafting a pilot study concerning delivery of effective public services impact of the 'normal' model of action behind the pilot study should be taken into consideration.*

c) Another activity of public administration is maintenance of institutions (which usually deliver public services). *In this field the less regulations are concerning the activity of the body responsible for maintenance institution the more opportunity is granted for experiments (limitation 5).*

d) Regulation by public administration as the last activity examined can be understood if it is compared to other activities. Formal administrative procedures create direct links between a public body and a person under its jurisdiction. When public administration maintains another institution which delivers public services the link between the two institutions is direct while the link between the maintaining administrative body and the recipient of the public service in case is indirect, the maintained body is enclosed between them. Regulatory administration means an increasing distance between the main administrative body and the recipient. In this last situation the regulatory (the main) administrative body does not interfere directly by maintenance in the activity of an institution delivering services, but only regulates their operation (by non-legislative but legally binding rule-making). In these situations only the principle of non-discrimination can be observed as an obstacle in front of experiments. *Limitation 6: the more specific is the legal relation between an administrative body and recipient persons the more freedom is available when a pilot study is drafted.*

e) Looking at self-administration of public administrative bodies the system of obstacles is much more simple. Hence administrative bodies have no or only very few substantive rights within their relations, and these rights even if exist are not guaranteed by judicial protection, there is practically free track for invention of new models and for their experimental test being it a pilot study or any other form.

2. Impact of administrative law on pilot studies

The dimensions of administrative law observed within this research were theory of administrative law, creation of administrative law (legislation), application of administrative law.

a) As regards theory of administrative law the previously mentioned particularities could be repeated. As theory it creates models of an actual status of administrative law (*imago de lege lata*) or of hypothetical new forms of regulation (*imago de lege ferenda*). These conceptual models are artificial and simplified transcripts of the law in force or possible drafts of new regulations. Of course, it is presumed

that characteristic features of the model are similar with the existing or potential legal phenomenon. Theoretical models cannot be tested within theoretical circumstances, for the purposes of test legislative and/or administrative activity is needed. *Limitation 7: conceptual models of administrative law may be tested only if actual paradigms of law are taken into consideration.*

b) Thus creation of administrative law is itself an experiment of a theoretical model (if such a model exists and law-making is not desultory). After conversion of a theoretical model into legal reality (legislation) the result influenced by particular applications (jurisdiction) may be measured as feedback to the conceptual model. Limitation of this process can be separated to the different fields of regulation.

Substantive administrative law concerning rights and duties of persons usually does not support experiments (neither in form of pilot studies) due to protection of fundamental rights and freedoms (*limitation 8*). This limitation is extremely strong as rights and freedoms are taboos of the present age. If rules of substantive administrative law concern only public bodies extension of experiments is wider but some higher regulations (e. g. those of constitutions) should be observed (*limitation 9*).

Law of administrative procedures applies limitations 3 and 6 expressed above. Sectoral specifications and internal rules which have no effect on rights and duties of persons (parties involved) may serve as experiments (sectoral pilots of procedural regulation). The situation is the same in the case of rules regarding organisations and internal relationship of administrative bodies: practically no strong obstacles should be faced.

c) Application of administrative law (jurisdiction) supports experiments or pilot studies only if limitations presented above are respected. It means that pilots may be introduced only in specific sectors of application of administrative law or with limited territorial effect, however non-discrimination may not be offended (*limitation 10*). This last limitation can be refined to the Hungarian state organization. *Limitation 11: possibility of pilot studies in administrative jurisdiction is directly proportional to extent of powers of autonomous local authorities and it is inversely proportional to the level of centralization.*

3. How should (not) be performed a pilot study?

All aspects limiting administrative and legal pilot studies cannot be enlisted, but three of them, like social engineering, legal anthropology and principle of rule of law should be mentioned

a) When one tries to answer the questions regarding the reason and sense of administrative and legal experiments some very simple arguments are found. We would like to understand the structure and functioning of administration or we try to have a better administration (better in its legal values, effectiveness, transparency, reduced costs, increased speed of procedures and so on). This answer leads to theory of social engineering of Karl Popper. Popper suggests to apply experimental technics of natural sciences for social theories. Conceptual solutions should be designed and introduced into social relations applying engineer-type methods, without taking into consideration historical and ideological aspects. This method is – at least in Popper’s arguments – by the fact that there is no *a priori* good or bad solution to certain social problems, needs or claims. There are no *a priori* good or bad social techniques, consequently the new ideas or solutions may and should be tested by *in vivo* experiments.

Without entering into sophisticated evaluation it can be traced an important borderline between scientific (technical) and social engineering. This unavoidable difference is that social engineering – at least regarding public administration – does not tolerate waste, there may be no pre-calculated production losses. This principle of no-waste is an important barrier of administrative experiments or pilot studies. *Limitation 12: when an administrative pilot is drafted – whatever be the purpose – failure of experiment concluding in breach of individual rights must not be included as probable outcome.* A conceptual (theoretical) model may be tested only if there are enough certainty that it will lead to positive effects. This limitation can be reformulated or understood as a new, derived formula. *Limitation 13: any administrative pilot as experimental model should work even during its performance, even more its results must not be worse than those expectable without the experiment in case.* If results during the experiment show worse level, the experiment should be stopped. This limitation cannot be passed due to ethical reasons and rule of protection of fundamental rights as governing principle of constitutional states.

b) Anthropological dimension of persons (natural entities) may also be characterised by taboo of fundamental rights and freedoms. Although theory of positive law does not operate with such taboos (strict limitations as *a priori* conditions of legal regulations) Radbruch's formula (principle) appeared after World War II makes it unconditional. According to Radbruch erroneous rules may belong to a particular legal system (law in force), and these rules should be observed. However, if a legal rule is not only erroneous but it does not even seek to be just that rule loses its legal character and should be handled as an injustice (abuse) wearing the robe of a legislative act. A rule is certainly unjust if it does not accept the equality of natural persons (before the law). Such a rule should be ignored.

No matter how clear Radbruch's formula was half a century ago, actual practice of principle of equality of persons before the law is not without uncertainties. Different principles reformulated from that of equality of natural persons (before the law) as equal dignity, general right of personality (used within the practice of Constitutional Court of Germany) or right to self-determination tolerate more or less specialities within legal regulations. The genuine sense of equality did not mean that any intention, endeavour, will, idea of any human being at any time should be equally granted and protected by law. Law is its core not else than a set of compulsory rules governing coexisting human communities. If principle of equality is applied unlimitedly to legal regulations as an unconditional barrier than any other (natural, social, individual) peculiarities of law will be lost and the outcome will be correct but sometimes unjust. Natural persons – or at least their personality – may not be dissolved in the diversity of legal relations and regulations governing them. Human beings may not lose their dimension: law should protect human beings – as equal personalities – not only their particular rights.

This anthropological approach regarding pilot studies leads to a new *limitation (no 14)*: *if equal legal protection is not granted to human beings as constant subjects of law but it protects them only as dimension-lost persons composed only as sum of their rights than neither social goals nor long term personal benefits may serve as enough reasons for short term legal disadvantages (for instance caused by a pilot study).*

c) Our last consideration concerns the principle of rule of law. Rule of law is usually understood as a set of principles founding a hierarchical order of legal regulations with the Constitution on its top: prohibition of retrospective effect of legal acts, guaranties of fundamental rights and freedoms, legal regulation of state powers activities, judicial control of administrative acts, presumption of innocence of citizens, democratic legitimacy of government, separation of branches of state, equality of people which are essential for a state and its legal order if it wants to be accepted as non-arbitrary, non-dictatorial.

In reality manifestation of the triangle of legality, legitimacy and efficiency is not simple. legality and legitimacy are not simply brakes of efficiency but both of them are acting against the other. Being legal, legitimate and efficient is almost impossible for an executive power, or in a broader perspective: for a government, one edge of the triangle will be overweight. In our culture based on rule of law it seems that legality is this overweight edge of government-architecture presented above. Of course, one may say, but sometimes we face not only overweight of legality but the strong restriction of efficiency due to activity of Constitutional Courts, the European Court of Justice or of the European Court of Human Rights.

In some cases the point of view of legitimacy is completely ignored. Explanation of this situation is quite simple: courts with the final and non-contestable power of interpretation of law are not only forums of individual legal debates but in the same time courts appear as definitive and sole guardians of the executive power or in a broader sense, of the whole government. If courts and only courts rule on activity of the executive, than any other aspects of responsibility or accountability like political reasonableness, economical profitability or social acceptance are of secondary importance and the mere standard will be formal legality. If we look around this is the appearance of legality today: legality is understood in this manner.

In such a system a Constitution or law in general will become the only legitimate form of regulation, any limitation of right and freedoms will be accepted only if it is regulated by valid legislative acts. Law and state or a larger community behind law take the shape of a fetish and principle of rule of law will become rule of totalitarian law. *Limitation 15: Under the rule of totalitarian law no limited experiment, no pilot study will be feasible; an administrative experiment can be performed on the largest scale of the whole nation or the whole community at*

once. If administrative pilots are found to be risky, legislation with complete exclusion of experiments proven by rule of totalitarian law is much more risky. It can happen that there will be no second try.

The role of legislation in pilots

LÓRÁNT CSINK – GÁBOR KURUNCZI – ÁDÁM VARGA

1. Introduction

There is a wide variety of pilots with marked differences. These differences arise not only from the varying characteristics and methods of the different branches of science, since it seems problematic to give a consistent account of pilots even within the scope of social sciences, or within the science of law itself.

Moreover, the use of pilots is not restricted to science only. It is common for large companies to use pilots after the introduction of new services or business ideas.

However, while a company may afford to risk the turnover of one of its “experimental” sections, the situation seems more complicated when it comes to the “engineers of society”, since in this case it is not products that are at stake, but the pilots have an influence on certain groups of society, either in a direct or in an indirect fashion.

As a result, the boundaries of pilots are not set by internal, but external norms, and legislation might play a significant role in their implementation.

On the one hand, by summarising the conclusions drawn from a pilot project, it may become necessary to create norms which help execute changes in the system. On the other hand, establishing norms may be a prerequisite for the implementation of a successful pilot.

Therefore, in this paper we explore the role of legal regulation in pilot projects.

2. The significance and characteristics of legal regulation

It is beyond doubt that social relations must be regulated. This, in the modern era, is done by the state, primarily by the government.

Certain features of the modern era, such as the significance of self- and co-regulation, as well as the presence of regulating bodies seem to bring the above statement into question, or, rather, call for the reconsideration of the traditional concept.

In terms of the regulation of social relations, legal norms have been favoured over other systems of norms, and during the course of historical development law has become a universal, closed system of norms.

2.1. The importance of the regulation of social relations

It is to common knowledge that social relations must be regulated. In order to do so, there must be an authority which prescribes a certain conduct of behaviour for the individual, creating a functioning society.

As a result, societies have norms from the very beginning of their respective history. All type of norms stipulate conducts of behaviour in order to influence and direct the acts of the individuals.¹

In this context the norm is the authority which defines the conduct of behaviour. Where the purpose of the norm is thought to be the regulation of social relations, the “success” of the norm depends on whether it is being followed. It does not necessarily mean the failure of the norm if a small number of people do not follow it. However, if non-compliance reaches a critical extent, the norm itself ceases to fulfil its function.

A norm may emerge in a number of different ways: conducts of behaviour can be defined by religion, customs, ethics, or even by etiquette or fashion. It is a common feature in all norms that they prescribe conducts of behaviour, and that they only bear an influence on social relations if they are accepted by the members of society.

2.2. The emergence and development of legal norms

Legal norms have a special place amongst norms. Legal norms can be described as orders of the legislator (the state) that contain rules regarding certain behaviour, with the “promise” of the legislator that it

¹ See Joseph RAZ: *The Authority of Law: Essays on Law and Morality*. Clarendon Press, Oxford. 1979.

will implement the regulation even by force.² The main characteristic of legal norms is thus their enforceability guaranteed by the state, which constitutes a major difference between legal regulation and all other types of social norms.

Consequently, legal norms are inseparable from the existence of the state. Ever since its emergence, the state has exercised its legislative power (i.e. enacting legal norms), rendering certain social relations to be regulated by legal norms.

The next step of historical development was the systematization of norms regulating certain everyday relations.

Although creating written records of legal norms was an early development, this cannot be regarded as codification, since codification is not only a type of legal solution but takes place in the wider context of the spirit of legislation. The change is characterised by the distinctive features of the histories of different countries, taking place mainly during the period of rapid economic and demographic growth of the 19th century, when public law and private law became two separate areas.

All the civil codes originating from this period can be characterised by the common purpose of codification: ensuring the unity of law. The unity of law is an essential step towards guaranteeing the parity of law.

Another important result of codification is that it renders the legal system reliable, enforces the normative content of law, thus ensuring legal certainty. Codifications contributed to the normativity of law, and in the regulation of the conduct of behaviour the importance of normative acts increased. This might be the reason why the structure of the essentially civil law codifications is an area of interest to scholars of public law as well.

2.3 Self- and co-regulation in the legal system

Legislation is not the only way of regulating social relations. Another possibility is when the legislator allows room for self- and co-regulation, and makes it possible for the subjects of regulation to establish norms themselves, which are later reinforced by legal effect.

² András Zs. VARGA: Gondolatok a kodifikáció mélyrétegeiről. (Thoughts on the Deeper Spheres of Codification) *Magyar Közigazgatás*. 2011/3. 67.

The self-limiting feature of the state with regard to regulating social relations does not entail disorderliness, but rather the restriction of the state's authority.

When should the state refrain from regulation, and hand it over to the individuals involved? Regarding this issue, we reckon that the state should take the following aspects into consideration.

- 1) The first aspect is the principle of subsidiarity. An important point of consideration in the area of legal regulation and self-regulation is the principle of Occam's razor³ - namely that the simplest solution is usually the correct one.
- 2) According to the first aspect, it should be explored whether self-regulation and state regulation are equally adequate for yielding results. Thus, the second aspect concerns adequacy: is self-regulation adequate for managing the social relations in question?
- 3) It should not be overlooked by the state that self-regulation must not interfere with the goals of the state, and with its duty to protect both the subjective and the objective elements of human rights. Therefore, in those cases in which the state is bound by a certain constitutional duty, it must not give up legal regulation entirely. The more weight the issue carries from a constitutional point of view, the less scope there is for self-regulation.⁴ Thus, the third aspect concerns the constitutional interest of the state.

According to our conclusions, the question whether self-regulation should be favoured over legal regulation, or the other way round, can be answered by taking the three above aspects into consideration.

³ „Pluralitas non est ponenda sine necessitate” in English: „Plurality should not be posited without necessity”.

⁴ To set an example: the state cannot establish law enforcement as an issue of self-regulation, even if the population were able to organise the task and they were adequate to manage the issue. Hence law enforcement is a constitutional obligation of the state, the state cannot “risk” the outsourcing of the issue from legal regulation.

3. Legal regulation in pilot projects – the need for legislation and the levels of legislation

3.1. The role of legal regulation in the methodology of pilots

Regarding each pilot it is important to explore the issues of methodology necessary for the implementation of the pilot, i.e. the idea, place and persons involved in the experiment.

The question arises whether legal regulation is meant to determine what a pilot should be like? Can/should the legislator determine what the methodology of a pilot should be?

The first question that arises regarding a pilot is its purpose. The desired outcome of such a project is to model how the solution under consideration is going to function. In order to do so, it is important to find the most appropriate location and control group for the experiment.

Furthermore, every aspect of the solution under testing should be introduced into the experiment.

The method should only be defined by law if the pilot could not otherwise be successfully conducted, and if the conclusions of the pilot would not be accepted unless it takes place within accurately defined boundaries.

The selection of appropriate subjects is an element of the planning stage, which has to be carried out regardless of whether it is necessary for a legal act to be put in place before the implementation of the pilot.

Naturally, if the pilot is preceded by a legal act, the setup of the pilot, including the location and the subjects should be dealt with therein. However, in case the pilot takes place within the existing legal framework (e.g. the Canadian immigration pilot), it is sufficient to clarify the methodological issues without the employing legal instruments (e.g. by a detailed action plan).

3.2 The relationship between the principles of pilots and legal regulation

During the planning and implementation of pilots, constitutional principles and basic rights must be respected. One of the most important of these principles is the rule of law, since each principle used during the pilots can be derived from that. Since one of the important elements

of a pilot is to determine the necessary legislative actions before and after the research which contribute to its success, these principles are binding upon the legislator.

When examining the relationship between legislation and pilots, it is important to take a closer look at certain constitutional principles. According to Herbert Küpper, the rule of law means that law is the final basis and highest authority regarding every significant social situation in life.⁵

In the jurisprudence of the Constitutional Court, it is clear that legal certainty is a pivotal element of the principle of the rule of law.⁶ In continental law, legal certainty expresses the “basic principle” that one can safely rely on law, on its content and stability.⁷

According to the relevant constitutional thesis, it is a basic requirement arising from the rule of law that institutions with executive power should function in accordance with the law, and in a way that is transparent to the citizens.⁸ In other words legal certainty does not only entail the univocal nature of norms, but also that legal institutions function in a predictable manner.⁹ The individual principles of pilots follow from the principle of the rule of law.

The principle most closely connected to the rule of law is the principle of equality. It is a basic requirement in this framework that none of the subjects of law should be put into a less favourable situation than others. Therefore, none of the people affected by a pilot project should fall under stricter rules than others.

Affirmative actions, however, might occur, since a pilot might be directed at modelling a situation which, in the end, is going to be more favourable for society on the whole. However, if the legislator recognises that the implementation of the pilot would be discriminative, it is likely that the issue in question cannot be adequately modelled.

Another consequence of the principle of equality is that people affected by the pilot project should not gain benefits which are

⁵ HERBERT KÜPPER: A jogállam követelményei az Európai Unióban és Magyarországon Alaptörvénye. (The Basic Law of Hungary and the Standards of Rule of Law in the European Union) *Jura*, 2011/2. 97.

⁶ BÁNÁTI János–RÉTI László–TÓTH Ádám: A jogbiztonság kirívóan súlyos sérelme. (The Severe Infringement of Legal Certainty) *Ügyvédek lapja*, 2010/2. 19.

⁷ KÜPPER: *infra* 102.

⁸ The Ombudsman’s petition to the Constitutional Court challenging the Transitional Provisions to the Basic Law (AJB-2302/2012)

⁹ BÁNÁTI-RÉTI-TÓTH: *infra* 19.

disadvantageous for those unaffected by it – which principle is another basic requirement of pilots.

Furthermore, it is important to bear in mind the requirement of the least possible interference when considering the possible regulation of pilots. One of the advantages of a pilot is that experimentations with legislation can be avoided. As a result, the entire apparatus of an institution does not have to be changed from behind a desk, and any detected dysfunctions can be remedied by gradual alterations.

Therefore, the principle of the least possible interference is a requirement, as well as a consequence of the pilot. In terms of legal regulation this means that the legislator has to consider the degree of interference required by the pilot, since it is not always necessary to regulate it centrally, moreover, it is possible that the legislator should take no legislative action whatsoever.

Furthermore, it is important to set up a pilot in a way that it is free from unnecessary regulation, and hence from dysfunctions, leaving room for the experiment to take place. It should be avoided that pilots test factors that are not essential to their overall aims, yet it should be made sure that they do test what they are meant to test. This question is not closely connected to legislation, since these issues should be dealt with during the thorough preparatory process preceding the implementation of the pilot.

The responsibility of the legislator lies in offering assistance in clarifying the issues arising from the preparatory process and to reflect on the prerequisites of the pilot.

The importance of the principle of the least possible interference becomes evident when we consider that the main aim of the pilot is to test how the system may be altered in the most efficient way. In this respect, the most important factor is the choice of location; the legislator has to define the territorial level of the law that results the least possible interference.

It seems straightforward that it is unnecessary to regulate an issue by statute if it can be regulated by decree. This issue is not closely connected to the question of pilots itself, it is much rather the responsibility of the legislator arising from the principle of subsidiarity.

In addition, the legislator should bear in mind the requirement of the least possible interference even before the implementation of the pilot. It is possible that it only seems necessary to regulate the pilot by changing the legal context because the executors of the pilot overestimated the

degree of interference, and at the level of the desirable interference no legal action would be necessary. In this case it is the legislator's responsibility to recognise and rectify the mistake.

3.3. Legislation and pilots in practice

Ideally legislation and pilots complement each other. The appropriate legal context may help the implementation of the pilot, while the successful pilot might point out how to make the legal framework more effective.

It is misleading to present legislation and pilots as if they could substitute one another. It is common that a pilot explores the most effective use of the legal framework, however, the problem arises when a pilot is trying to fill in a gap in the legislation.

Pilots are not magical entities which could solve every problem. The experiences gained from the project in the South-Transdanubian region show what happens if one tries to model a completely new legal institution in an unsuitable legal context.

On the other hand, pilots provide a great deal of useful experience besides the possible mistakes mentioned above.

As a conclusion, the following four models may be outlined regarding the connection between legislation and pilots.

- 1) Firstly, one might argue that it is unnecessary to implement any legislative acts prior to a pilot project, i.e. there is no need for prescribing a new conduct of behaviour. In this case the implementation of the pilot takes place within the existing legal framework, and if it is successful, it does not necessitate any changes in the legislation. The purpose of these pilots is to explore how to use the existing legal framework in the most effective way. An example of this might be the Canadian immigration project. However, these pilots can only be successful if they do not require the alteration of the existing legal context.
- 2) According to a different approach, even if there is no need for changing the existing legal framework, it might be beneficial to outline a certain strategy. During the "Biztos Kezdet" (Safe Beginning) project a national strategy was formed, which was accepted by the Parliament in May 2007. In order for

this approach to become successful, the project should ideally concern an area where little or no legal regulation is needed, or where the legal context allows for a smaller scale regulation (concerning the project only).

- 3) The third approach might be considered the most classical one, according to which a separate legislative act is called for in order to create the appropriate legal context. Without this new framework the pilot would yield false results. In this case the purpose is not only the implementation of a new method, but of a new system, and it is this new system which calls for the legislation preceding the pilot. An example of this might be the Spanish home-work pilot, which was preceded by a lengthy preparatory period, impact assessment and a royal decree. Prior to the implementation of the pilot, the legal framework was first adapted, within which the pilot proved to be a success.
- 4) Last but not least, we would like to point out that a pilot might also be misused. In these cases the pilot serves as a type of solution intending to replace legislation without parliamentary approval. This differs from the approach outlined in point 1. because while there the purpose of the pilot is to improve an existing system, here the change is introduced into the existing legal framework from outside, using an inadequate method. Basically, by merging the approaches discussed in 1. and 3., the system is being changed without the authority to do so. A typical example of that would be the South-Transdanubian project mentioned above, in which a desired regional system was modelled in the existing county system outlined by a statute based on two thirds majority.

Hence, such a solution gives rise to a number of different problems. The conclusion has to be drawn that a pilot intending to change the existing system entirely cannot be successfully implemented within the existing legal framework.

4. To conclude

Pilots certainly play an important part in social sciences. Law as well as public administration might make use of pilots for the improvement of certain areas and in implementing new methods.

It should not be overlooked that the same principles of the rule of law have to be followed when implementing a pilot and when using classic legislative solutions.

This might necessitate certain legal regulation prior to the implementation of the pilot. Although one of the aims of a pilot is to avoid unnecessary legislative experimentation, in case it is the legal framework itself that is intended to be reformed, the creation of “experimental statutes” is inevitable, i.e. legislation cannot be avoided entirely.

However, it is worth noting that pilots do not always go hand in hand with legal regulation. In many cases the success of the pilot depends on the absence of legal regulation. The most important criteria in this case are adequate research and impact assessment preceding the implementation of the pilot. All unnecessary legislative steps should be eliminated from the pilot.

As a result, the methodology of the pilot itself does not have to be outlined within the legal framework, while general principles must not be overlooked during the process. By taking all the above factors into consideration, and by not exploiting the existing boundaries, pilots can be successfully used in order to improve the system of public administration.

Possible solutions of controlling and evaluating model tests

Gergely PATYI

1. Introduction

Péter Szilágyi has the following opinion: „Legislation is an activity of state organs expressly endowed with legislator’s sphere of action with the aim to create legal norms formulated in the form of conscious, express, exclusively direct, general and abstract rules of behaviour”.¹ Perhaps it may be added, that it is not one type of activity, but series of activities, i.e. a process of which the characteristic features of a process such as time, quality and costs hold true. Principles and methods of organizational studies were applied and considered in public administration before all by Magyary-school.² András TAMÁS who considered public administration as a technological process was convinced, that the operation of public administration as of any other organization is characterized by utilizing both personnel and equipment.³ Based on life work of Zoltán MAGYARY, the *Magyary Zoltán Public Administration Development Programme* was launched in spring, 2010 and was elaborated with process - oriented approach. ⁴

If we want to change something, but consequences of wrong solutions may be serious, it is reasonable to run first a pilot type of project, which is a research and/or development activity performed first under real

¹ SZILÁGYI Péter: Legislation, enacting process, kódex. 1. - http://www.ajk.elte.hu/file/Kodifikacio_SzilagyPeter.pdf

² András Fluck a colleague of Magyary Zoltán studied processes of public administration based on theory of organization for the purpose of quick, effective and economical work processes within public administration. ALMÁSY Gyula: Organization and technological development of public administration. *Thesis for doctor’s decree*, Budapest. 2012. 32-37.

³ TAMÁS András: *Theory of law on public administration* Szent István Society Budapest, 2005. 368.

⁴ MAGYARY Zoltán Program of development of public administration (MP 11.0) For salvation of homeland and service of the public Budapest. Ministry of Public Administration and Justice, 2011.

circumstances but with involvement of permanent participants, on small pattern to solve a combined problem with small time and cost⁵ and if the pilot project does not *result in expected outcome, there will be a possibility to make effective changes*. In case of Public administration there is however only a limited way to perform model tests and can be used before all in areas of institution maintenance administration and internal self-governing administration.⁶

2. Notion of project and project phases

It is considered to be a project when an organization with own structural background is performing complex activities to prepare and realize a draft with limited time and cost consummation and after the completion of it lessons can be drawn and experience can be acquired. It is a single and at the same time complex activity. Project process consists of cycles and key decisions, responsibilities and need of information are assigned to every phase of project management; it states as a precondition, that the next phase can be continued only after completing the first one; and lessons of evaluation will be utilized when drafting the next projects.⁷ Based on project cycle the performance of operative activities in the project can be broken down in four stages: elaboration of concept, planning, realization and completion.⁸ According to other sub-division the project cycle has three phases: preparation, execution and control. In the stage of preparation problems, limits and possibilities are identified (risk management). Performance is the actual realization and underway checking (monitoring). When the project is completed, the evaluation of the realized project, review of results and drawing of consequences take place.⁹

Project management – Includes setting of aims and goals to be reached, methodical and technical system of conditions assuring

⁵ Unified terminology. Important constructions of tenders on public education www.nfu.hu/download/.../8_melléklet_Unifiedterminology.pdf

⁶ VARGA Zs. András: A közigazgatási modellkísérletek korlátai. (Limits of model tests in public administration- Recent article)

⁷ EGERI Imre: *Project management. Textbook*. Nyíregyháza College: 2012. 3-5.

⁸ CLELAND, David I.: *Project Management: strategic design and implementation*. McGraw-Hill, Michigan:1994. 47.

⁹ http://users.atw.hu/hummen/anyagok/eu/4_Preparation of projects.pdf, 3.

performance. According to Mihály GÖRÖG: “Project management is nothing else but leading, managing, organizing fulfilment of a project that concentrates resources and information, methodical and technical toolbar to reach the defined targets.”¹⁰

Preparation and planning of project – Planning of a project is a process of solving a problem, in which we determine schedule of objectives and tools required and suitable for reaching those objectives. Steps: determination of starting point, preliminary choice of objective(s), examination of starting situation, finding possible solutions, planning of content of project, and feasibility study, control of objectives, amendments, election of appropriate project(s).¹¹ In areas of public administration where tests in connection with models – practical test of model – are generally not possible, it is extremely important to evaluate opportunities and limits, i.e. to perform many -sided risk assessment as detailed as possible at this stage.¹²

Fulfilment process –realization of projects – In the process of fulfilment of the project tasks and activities determined in planning stage and leading, co-ordinating, managing of fulfilment processes take place. Steps of carrying out a project: Survey of project plan, making necessary corrections, setting up and operating of project organization^{13,14}; handling different interests, assurance of co-ordination and cooperation; supervision and managing of project

¹⁰ GÖRÖG Mihály: *Introduction to project management*. Aula Kiadó. Budapest. 1996. 15-16.

¹¹ DÁVID János – MÁTYÁSI Sándor – TAJTI József: *Project management manual* 6.- 7. <http://www.3kconsens.hu/files/Projekt%20menedzsmen%20kezikonyv.pdf?PHPSESSID=cdbcb5f92d6ca0854e8445639cf9fd48>

¹² Father of first model test in public administration Lajos Esztergár similarly realized model test and formation of social co-operatives. ESZTERGÁR Lajos: *By ways of social work*. Kultúra Könyvnyomdai Müintézet, (“Kultúra“ printing house) Mayer A. Géza és társai, Pécs, 1939. 14-29.

¹³ Esztergár Lajos was a pioneer also in this field. He recognized that tools are necessary for solving problems and along with financing, people and organizations are of same importance for successful reaching of our goals.

¹⁴ In the model tests organized by Magyary Zoltán in Komárom county a project organization was a project organization also recognizable. MAGYARY Zoltán: *The social county – Operation of Komárom county public welfare and economic cooperative* Magyar Közigazgatástudományi Intézet. Budapest, 1941. 8.

(program monitoring of content, professional compliance, timing, financial and other aspects¹⁵; communication and PR project¹⁶).

Supervision and project management – Main objective of project supervision is to examine, whether each of the project elements meet the goals set in the project plan. Task of project management is to identify risks and problems occurring during performance, to formulate alternatives of solutions and to prepare them for decisions. Three activities related to supervision of project: *monitoring, control and valuation*.

Monitoring is based on continuous collection of data and serves measurement of results of the project. Control means continuous review of processes and activities reflected in administrative and legal regulations. Valuation is a review of the project as a whole and its aim is to check the impact of activity on social-economic solution of problems.¹⁷

Monitoring activities can be broken down in three steps: First is tracking where we examine in the stage of project planning some defined indicators. Second step is interpretation of results, interpretation of received data and compiling information from those data. Third step is preparation of future decisions on interference, settlement and documentation of decisions on interference in form and with contents in accordance with requirements.¹⁸ Current values of indexes and indicators will be continuously collected and analysed and based on this, it can be decided, whether the project is in progress in accordance with preparatory plans and concept and whether it is necessary to intervene, to make correcting or preventive measures in case of differences.

Based on frequently similar data, the control process has to assure compliance of system of rules elaborated for it or formulated by the

¹⁵ DÁVID – MÁTYÁSI – TAJTI i. m. 27-28.

¹⁶ In the project of Simplification of legal rules and processes in Ministry of Rural Development is a project organization clearly defined. ÁROP-1.2.6/A-2011-2012-0002. Formation deed of Simplification of legal rules and processes in Ministry of Rural Development 2012. 12-14.

¹⁷ Ex Ante Consulting: System and project management of EU tenders National Development Agency Structural and Cohesion Funds Centre for Educational Coordination (in Hungarian SAKK). 2004. 102.

¹⁸ MÁRKUS Béla: Spatial analysis and decision support. University of West Hungary 2010 - http://www.tankonyvtar.hu/hu/tartalom/tamop425/0027_TED3/cho1s03.html

supporter, or compliance with external system of rules, i.e. with local legal rules and community law. Monitoring and control are tasks of operative character directly related to performance of the project and are constantly in progress and accompany the completion itself as a whole.¹⁹

The thought of continuous evaluation of operation can be extended also to the area of public administration, since the activity of an organization can be assessed based on values defined in advance and on indicators. In public administration this way of assessment where rules provided for a system are compared with actual operation is called control.²⁰ Also in this case the control is series of actions, where control is extended to time and place, i.e. it can be considered series of activities built on one another.

While monitoring and control activities supporting performance and carried out through the period of fulfilment, by evaluation the project as a whole is examined upon completion. By evaluating the project is reviewed from the aspects of importance, effectiveness and efficiency and in the light of goals defined upon planning and of elected strategy.

When we evaluate importance, we have to get an answer whether really essential goals have been set and reached. Studying for effectiveness we will find out whether we succeeded in reaching our goals and if yes, to what extent. When finding out if efficiency is reflected in our work, we have to see at what price and what input, resources were needed to reach these goals. As against monitoring, evaluation handles not only the project itself, but also project and environment together, allowing an outlook for analysis and interpretation of the project under given social-economic environment.

The mode of action of the three activities – monitoring, control and evaluation - is different. Operative aim and outcome of a project is the final result in favour of which the project has been launched. Control checks the existence of same.²¹ A specific aim i.e. result is to provide

¹⁹ In case of Magyary Zoltán model test we can already mention monitoring activity, since definition of aims was based on assessments and the elaborated file of families provided a possibility of system to continuously trace realization of the project. MAGYARY i. m. 42-47.

²⁰ TAMÁS i. m. 371-372.

²¹ E.g. Sure Start Programme wishes to provide a chance to children under ages of 14 and their families participating in the programme, so that children in their earliest ages get help to their physical, mental, emotional and social development. http://www.gyerekesely.hu/index2.php?option=com_content&do_pdf=1&id=202

direct benefit to the elected target group.²² Results can have indirect impacts on the target group on the long run.²³

The narrowest interval is covered by the control process. By control we check the determined outcome from first step until the last one and whether carrying out of the project has been performed in accordance with rules and regulations. By monitoring the relation among goals set, ideas and fulfilment is examined and in case of differences it provides an option for decision-makers to intervene. Through evaluation one goes back to the social-economic problem, originally intended to be solved and from this point of view it assesses the project as a whole by reviewing whether aims that were set were really relevant to results and outcome and states the proportion between invested resources, the input compared to impacts. Project evaluation covers the whole project from input to effects and impacts.

The three activities can be separated also based on mode of feedback. If by monitoring differences are found, this means that activities are not carried out as previously planned, factual data are lagging behind planned data. By monitoring the reasons and background of differences detected an option is provided for decision-makers to alter the way of performance of the project. In case of monitoring a feedback will be a kind of fine tuning for the sake of efficiency. When non-compliance is stated upon evaluation, this can be interpreted in the process of evaluation as a deviation occurring with regard to logic, efficiency and effectiveness of the project or to its mechanism of action as a whole. By evaluation attention is drawn to strategic and practical contradictions and insufficiencies.

A good example for fulfilment of project approach is Széchenyi Plan, in the projects of which aims and goals, indicators necessary for

²² Helping children's physical, emotional, mental development, improvement of learning abilities, support to families and parent to stop recurrence of disadvantages, development of health culture, support of families with children with special educational needs, coordination of supporting professions, participation in communities, strengthening local communities, extension of areas of civil participation. - http://www.gyerekesely.hu/index2.php?option=com_content&do_pdf=1&id=202

²³ On the short run proportion of children with multiply disadvantages in kindergartens has increased along with number/proportion of participants in development courses at the age of 5. On the long run proportion of children ready for school at the age of 6 is improving Also the proportion of children aged 1-4 receiving attendance and catering during the day is improving along with successful learning of children with disadvantages and number of children in upper primary schools is decreasing. - http://www.gyerekesely.hu/index2.php?option=com_content&do_pdf=1&id=202

monitoring are clearly defined in order to reach a result and impact in accordance with the project plan.²⁴

Model test of Lajos Esztergár frequently referred to earlier was a success although we did not find a specific evaluation of it. It tried to solve acute social and demographic problems by elaborating an absolutely new social supporting form based on work where he reached his goal phrased at the beginning of his model test by saying: “Measures are of two directions: on the one hand inferno of life has to be eliminated and on the other hand weakened existence of man has to be strengthened.” The success of the model test was shown by the fact, that almost immediately after completion it was extended to other counties.²⁵

Communication and project PR – During performance of the projects ongoing information and maintenance of good reputation has to be assured as planned in advance. This is very important both to organizations participating in the process (e.g. increasing their prestige) and also important for the project team as it enhances its commitment. Basic requirement is transparency and giving trustworthy information therefore the project manager (the project team itself) has to control information.²⁶

6. Summary

Based on review of pilot projects we can state, that it can be well used both in legislation and by law enforcers after proper adaptation also in project performances with process insight in technical fields based on the fact, that all of our activities are based on elaboration, planning, fulfilment and completion of a concept, or by other subdivision based on preparation, performance and control cycles with the difference, that in various fields length and time period of each of the stages can

²⁴ Pl. ÁROP-1.2.6/A-2011-2012-0002. 5-7.

²⁵ By elaborating a perfectly new form of social support built on work he tried to find remedy to acute social and demographic problems and reached his goal formulated upon launching of the model test, as follows: „Measures are of two directions: on the one hand inferno of life has to be cleared and on the other hand weakened existence of man has to be strengthened” The success of the model test was shown by the fact, that almost immediately after the end he model test spread to other counties. ESZTERGÁR i. m. 15.

²⁶ DÁVID – MÁTYÁSI – TAJTI i. m. 38.

be very different. For example, in case of codification the planning phase should be the longest one, since practically it involves also implementation. At the same time completion and evaluation of the impacts of for instance a social project requires more time as compared to planning.

Applying pilots as a strategic planning methodology, or “picture in picture” nature of planning

György SÁNTHA

1. A Planning Methodological Approach to Pilots

The present work is the summary of the findings of a university research project stretching over a period of one and a half years, supported by the European Union. This research targeted *pilots* as methodological tools for supporting planning in the public sector. The starting point was the basic assumption that a pilot is a unique way of attempting to find a solution for establishing and realizing long-term strategies. In essence, a pilot is constant exploration, trying out methods not applied before or not based on previous research, gaining experience and, ultimately, on the basis of evaluating the results, establishing further conclusions for the future. Thus, in each case, a direct consequence of a *pilot* itself is some sort of strategic decision (so-called “*go*”/“*no go*” decisions), through which the pilot can clearly be defined as a tool for preparing decision-making.

According to our findings, in systems supplying public services the role of a pilot as a means of supporting decision-making may be connected to two macro-level processes: (1) strategic planning, and (2) legislation. To the most part, the present work provides a summary of the findings on the defining characteristics and methodological hallmarks of *pilots*, as well as of the findings on where and in which scenarios can applying pilots be justified, from the perspective of public services planning. That does not imply however, that the present conclusions are inapplicable to the process of preparing legislation. On the other hand, legislation and additional normative principles are viewed primarily as an important means of realizing strategies. That is the reason why, when working out the details of implementation, the significance of precise preparations, that is, operative planning, is greatly enhanced while, at the same time, the responsibility of interfering with social and economic factors is fully appreciated.

It is important to note that, similarly to the notion of planning, the concept of *pilot* is not clearly defined either. It is a characteristic of the legislation processes in European countries that they hardly ever involve planning as a public task or planning as an obligatory and enforceable activity in given situations. Yet, it is a fact that, especially in the Anglo-Saxon and Scandinavian countries, strategic planning applied over large social subsystems is a general method for solving everyday problems and is part of the working culture even without being regulated in detail. Contrary to this, creating legislation on state or governmental planning and institutions with a general scope over planning mechanisms is a characteristic of those countries, typically South European or former socialist countries, where the significance of planning must be highlighted simply because it is not part of everyday practice or if it is, only on a superficial level.¹

Given the above, it can be concluded that the legal foundations connected to public purpose planning, in other words, the definition and methodology of pilots, are currently virtually non-existent. Instead, in connection with *pilots*, what springs to mind in most cases is popular and fashionable project management practice greatly publicised over many forums, rather than a tool for preparing decisions, which is defined normatively and methodically. For these reasons, the phenomenon of "piloting" and a methodical description of *piloting* tools used typically in developmental projects constitute an especially interesting and currently relevant research target. At the same time, as compared to national organizations, the pivotal role played by international organizations (mostly the UN and the OECD) in determining definitions and standardizing the methodology of planning has a great effect on establishing practice and shaping perspectives.

¹ In our research we carried out a comparative analysis of the constitutions of 27 European Union member states and examined whether or not the practice of planning appears in the basic norms determining the operation of the state system and the more important institutions, and if yes, where and in what context. Our findings reveal that in Northern and Western European countries (The United Kingdom, Denmark, Sweden, Finland, Norway), which are considered more developed from a social and economic point of view, there are practically no signs of normative regulations on planning in the constitutions, while in Mediterranean countries (Spain, Portugal, Italy, Greece and Cyprus), as well as in former socialist countries (Romania, Slovenia, Hungary) often there exist separate articles regulating social and economic planning. We believe that the reasons for this phenomenon are rather rooted in cultural differences, which basically means that, presumably, planning must be emphasized and defined on the level of basic norms in exactly those countries, where it is not used systematically in everyday life.

The question of *pilots* belongs to the group of issues of primary importance which inevitably appear at the launch of a series of large-scale social or economic intervention, i.e. the questions of "What?", "Why?" and "How?" need their respective answers. To be more specific, *pilots* answer to the question of "How?", which is always relevant from a methodological perspective. In our conceptualization, the *pilot* is a methodological tool applicable in social and economic planning. In the standard case, "in time of peace", planning is a cyclic process during which organizing and carrying out activities are repeated in accordance with a pace determined in advance. That pace changes depending on the length of planning cycles, therefore different planning and implementation strategies are to be used in short-term and long-term projects.

In short-term projects operative, implementational factors are foregrounded, thus, logically, there is less time for planning. On the other hand, in medium- or long term projects only by projecting current trends on the more distant future and by a professional modelling of the different processes can any conclusions be drawn, which, in turn, may serve as the basis for determining the strategic directions and objectives of implementation. Furthermore, for macro-processes longer than an election cycle, the social and economic risk taken in finding the right directions grows in direct proportion to the length of the projected period of time. For these reasons, emphasis is laid on well-based and methodical planning in the medium- and long-run, which obviously takes more time, moreover, at least theoretically, it necessitates the application of a larger number of more complex planning methodological tools.

The range of tools for planning is relatively wide and is growing continuously, while, at the same time, it changes as well, largely depending on the use of whichever business management method becomes popular in the given time period. In our experience, pilots (programs or projects) are without doubt a tool for aiding medium- and long-term planning and preparing decision-making. In essence, a pilot, done at the request of the entity responsible for making strategic decisions, is a means of empirically studying the practical consequences of large-scale intervention prior to making final decisions, i.e. in the planning-phase, thereby facilitating conclusions drawn on taking further action.

2. The Characteristics of Pilot Projects

The studies done within the framework of our research show that, although there exist numerous *pilot* programs, successful pilots are realized by *projects*. In effect, projects are a series of steps planned for and taken in individual organizational environments, through which actual goals and results must be reached within a given period of time, and for which the client places determined assets (human and material resources) at the disposal of the project management.

In our approach, a *pilot project* is defined as intervention realized in connection with long-term (strategic) planning or in connection with preparing the implementation of strategic plans, with a decreased scope over a specific area and/or time period. As such, pilots are manifestations of experimental or modelling projects within the range of scientific projects in their own right, which, to this very day, bear the trial-and-error, experimental trademarks of a natural scientific approach to research, which attempts to model reality.

Apart from that, pilots display a close relationship to impact assessment projects. Within impact assessment projects, they resemble follow-up impact assessment inasmuch as with pilots it is also actual facts and results of measured data that conclusions are based on. From an analytical or research methodological perspective, the conclusions drawn this way have a more outstanding effect in a large-scale social or economic planning process because they are based on experience, *empirical* facts. As compared with that, in impact assessments prepared in advance, the consequences of certain decisions must be modelled on an abstract level, during which presuppositions, *perceptions* play a major role. On the other hand, *pilots* also make use of this approach as well, because on the basis of the findings gained through the *pilot*, the best way to project the anticipated consequences and results of large-scale projects is mostly by perceptual methods used in anticipatory impact assessment.

The table below provides a summary of the whole of the project *planning* and *implementation* cycle, with characteristic differences between pilot projects and the general practice of traditional projects.

	Project phase	Traditional projects	Pilot projects	Consequence
1.	<i>Terms of reference - definitions</i>	The form or basis of terms of reference are generally decisions of leadership or owners in an organisation.	The form or basis of terms of reference are in many cases comprehensive strategies, programs, or legal norms, international treaties or decisions of different bodies.	In case of pilots, the basis of terms of reference is the interest of wider social clusters (public interest).
2.	<i>Terms of reference - definitions</i>	The terms of reference is a single solution that was considered to be perfect by the project sponsors during situation analysis.	The situation (problem) treated by the pilot project is scrutinized, in many cases scientific methods are used so as to define all possible project scenarios and solutions.	In case of pilots terms of references are elaborated more precisely, because the social and economic risk of missing the only satisfying solution is higher.
3.	<i>Terms of reference - definitions</i>	Term of reference is taken into account as external givens that is elaborated just the rate sponsors (owners) find it to be important..	Elaborating terms and reference is important, as it is necessary to define scientifically or professionally the thesis precisely which of verification is the reason for the pilot.	In case of pilots the stake of elaborating the perfect terms of reference is higher, as any mistakes may frustrate all the interventions are to be carried out after the pilot phase during the strategic period.
4.	<i>Planning</i>	Planning of project steps are in focus rather than elaborating perfect terms of references.	After elaborating terms of reference precisely planning process managed among narrow time limits as, after the evaluation (decision phase), it is necessary to count with the higher claim of resources during the wider strategic period..	Contrary to traditional projects, in case of pilots not really planning, rather than elaborating terms of references and evaluation (decision) is the stressful project phase.
5.	<i>Planning</i>	All items of planning process are significant: there are emphasises not only on analysing the situation well as far as covering all the project goals with suitable resources..	During the planning phase programming (binding resources to goals) and planning realization step by step play a key role, as far as building monitoring and metering tools in to the managing processes.	In case of pilot projects, programming (binding resources to goals) plays a key role during the planning phase as other classic planning functions are constantly applied (from the beginning of elaborating the terms of reference of a wider strategy).

	Project phase	Traditional projects	Pilot projects	Consequence
6.	<i>Planning</i>	At the end of planning ex-ante evaluation serves filtering problems in consistency primarily. In case of projects belonging to wider strategies analysis of external consistency is also generally applied planning tool.	During ex-ante evaluation analysing the consistency with the strategy is to be proven by the pilot is very important, besides the general check phase of internal and external consistency.	In case of pilot projects ex-ante evaluation is more important and wider activity during the planning phase as the risk of being not consistent with the strategy to be proven by the pilot is higher.
7.	<i>Planning</i>	Planning phase generally involves getting and organising resources are to be used during the project; the realization phase starts with appointing the project leader..	Personal and financial resources are usually provided by the sponsors by the time of having their decision on starting the pilot project.	In case of pilot projects getting or providing resources plays a less important role, as personal and financial resources are usually given from the beginnings.
8.	<i>Management</i>	During realization phase effectiveness, efficiency and serving awaited indicators are the most important management goals; methods and documentation are concerned to be secondary issues.	In order to evaluate and re-enact pilot later, the project is implemented in a strictly controlled and measured environment. Besides effectiveness, recording events and documenting everything are equally important.	In case of pilot projects over the effectiveness, methodologically well controlled and documented management are highly expected from project leaders. (It emerges as a more complex leadership role.)
9.	<i>Management</i>	Monitoring supports project leaders in measuring effectiveness and tracking changes; following all the implementation phase in details plays a secondary role from the sponsors' point of view.	Monitoring tools help not just the project leaders in identifying needed interventions, rather the scientifically based project developed comparing to other projects, and provides constant insight into the project realization systems information for constant supervision.	In cases of pilot projects measuring, metering monitoring and documenting systems are more developed comparing to other projects, and provides constant insight into the project realization phase.

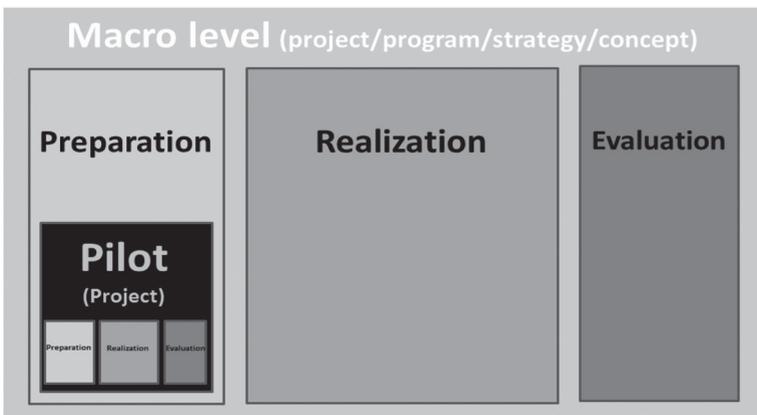
10.	<i>Evaluation (feed back)</i>	Oral or written evaluation provides feed back for sponsors about results, personal achievements and other project events.	Implementing the pilot follows profound evaluation work that concluded in a professional written document (report, final study).	Evaluation and feed back phase are more important in pilot projects as these play key role in planning the following program or strategy.
11.	<i>Evaluation (feed back)</i>	The result of evaluation and the quality of feed back have influence usually on the project staff and the sponsors. External communication, public reactions and the question of generating further projects are generally not relevant.	The result of evaluation and the quality of feed back have influence on the whole strategic planning cycle project (decision on go/no go). Both external communication and the question of generating further projects are relevant.	In case of pilot projects evaluation is to be considered as a kind of a methodologically based preparation work in order to well-found further decisions, projects, programs or strategies.

3. The "Picture in Picture" Feature of Pilots

When analysing the features of *pilot projects*, and viewing the various possibilities for grouping from an overall perspective, from a planning methodological point of view the most interesting feature of pilot projects is, by all means, their "picture in picture" (PIP) nature.

In order to get a better grasp of that, it is worth approaching the planning project from the perspective of the large-scale program or strategy for which the pilot is used to lay the foundations of or to strengthen, rather than from the perspective of the *pilot project*. From the perspective of strategy planning, the *pilot project* is none other than an exciting planning method, which provides a means of defining strategic goals and a tool for the entity responsible (typically the client) for making sure that the objectives or priorities defined by the strategy are correct and applicable, prior to leading the strategic implementation process down the wrong way into a direction from which there is either no turning back or it would take many years to reverse the process.

Thus, the pilot is realized as a part of an overall strategic planning process, within which, of course, there is a phase for planning the pilot itself. However, the planning period for the pilot must be kept short, just as the realization of the *pilot project* cannot take longer than the strategic planning process itself. The figure below depicts this difference in the timing as well as the "picture in picture" feature of preparing pilots and strategies.



The "picture in picture" nature of pilots and macro level plans (projects, strategies)

As shown above, the pilot is fully realized within the phase of project preparation, which is divided into defining and planning (programming) the task, prior to the starting date of the implementation.

In our fast expanding world, the continuously growing stake of strategic decisions naturally raises the value of planning as a social engineering activity nowadays, both from the aspect of strategies and individual projects. For these reasons, we predict that, along with the application of additional planning methodological tools, the significance of pilots will grow in the next few decades.

Looking at the past few decades in Hungary, in retrospect, a number of strategic decision-making scenarios can be identified, where, in case of a large-scale decision, it would have proved beneficial to launch actual pilots. It would have made interesting contributions in 1989 when decisions had to be made on the dilemma of privatization and re-privatization, or in case of determining the optimal land size during land restitution, or in connection with attempts to save socialist factories, or on reversing negative demographical processes, or on finding solutions to bringing the depopulation of villages to a halt.²

4. The Place and Time for Applying Pilot Projects

It is important to note, however, that pilots are not an effective means in each case in every situation. There is a place and time for their application, similarly to other planning methodological tools. In what follows, we attempt to provide a summary for such scenarios:

- 1) The first characteristic is *having a scope, i.e. a strategic approach*. Whether or not a pilot is necessary must emerge in the context of laying the foundations for a long-term plan, strategy, program or any other series of steps for intervention. Under a short-term planning scenario, there is no point in applying a pilot, given that it has its own time-span, which must be counted with. A strategic approach is typically a guarantee for making strategic decisions in time as well. Indecision,

² In connection with pilots launched in China to handle demographic problems, the pilot program launched in 1995 over six counties must be mentioned (for further details, see: KAUFMAN, J. – ZHANG, E. – XIE, Z. : "An experimental project in the service of population policy", *Studies in Family Planning*. 2006/37: 17–28).

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- foregrounding short-term benefits and a lack of commitment on the part of the management all hinder pilot projects.
- 2) The second characteristic is a *larger-than-average social and economic effect* associated with the interventions. Usually, pilots are carried out in situations of great importance where large amounts of money or some far-reaching social or economic interests (public interest) are at stake. Another typical pilot scenario is created by a situation where, due to the partial or complete irreversibility of processes, only one mistake is tolerated. In the case of interfering by pilots, it is this larger-than-average risk taken that leads up to expanding processes internal to the pilot over the boundaries of traditional organizational or institutional frameworks, furthermore, over the boundaries of certain social subsystems, or even states (global processes). For this reason, as regards micro-level or other institution-internal processes, they are better associated with testing and experimenting rather than with pilots.
 - 3) A third characteristic is *an intention to innovate, or an ambition to constantly improve quality*. Without exception, a certain developmental attitude surfaces in pilot projects, which is rooted in an innovative and experimenting approach striving to perfect the processes and the results of processes continuously. Smaller-scale pilots are run along the cyclically repeated phases of "planning", "realization", "control", "assessment" of larger-scale (macro-) processes, thereby providing an opportunity for the accumulation of findings, constant learning and improvement of quality. As a result, in many cases pilots self-develop, embedded in their own PDCA - cycles.³ Thus, pilots have no bearings on cases where cyclically renewed development or a constant improvement of quality are not objectives or priorities.
 - 4) The fourth characteristic is *openness, partnership, ethical awareness*. Successful pilot projects are typically realised through the co-operation of many participants. That necessitates maintaining constant dialogue and co-operation project-

³ The other term used is SHEWHART-cycle (see DEMING, W. Edwards (1986). Out of the Crisis. MIT Center for Advanced Engineering Study, p 88.), subsequently PDCA-, or PDSA-cycle (see LANGLEY, G. MOEN, R., NOLAN, K., NOLAN, T., NORMAN, C., PROVOST, The Improvement Guide, 2nd Edition, 2009, San Francisco, 24.), which, in essence, is the repetition of the following cycles: plan, do, check, study, act.

internally, and, in the case of public pilots, project-externally as well. In order to do so, nowadays there is a wide range of communication methods available. The situations involving greater risks also involve greater responsibility in decision-making and in ethical awareness. The pilot projects studied within the framework of our research were all characterized by a high ethical commitment on the part of the client or whoever requested the pilot, and they displayed an open intention to set an example, which, in many cases, was coupled with voluntary participation on the part of the other side, the partners.

