1. Introduction.

1. Emergence and development of civic society organizations.

Intervention of private organization, independent of any governmental authority in social welfare, public health and education is very ancient and precedes the beginning of the governmental one which began at the end of XVIII century. Their field of activity has spread out progressively in Europe on other fields of social and economic development at local level during second half of nineteenth century. Their dynamic development was slowed down a little with rapid enlargement of state intervention in economy and development of welfare state. But economic difficulties, which demonstrated the limits of state possibilities to lead and guarantee alone constant social and economic development, have attracted new interest for NGOs.

This phenomenon has concerned also, but in different way, developing countries. During colonial period, nongovernmental sector was represented mainly by confessional organisations which were playing predominant role in welfare, public health, education and even rural development activities. This role was seriously reduced after independence and replaced by the state, strongly assisted by international and bilateral aid and technical cooperation. Evident failure of governmental bureaucratic development programs, conducted unsuccessfully during three consecutive decades by state agencies and financed by foreign donors led to conclusion that NGOs present an alternative solution: a more decentralised, democratic and people centred one. The new paradigm of people centred social and economic development coincided with the fall of communism and end of cold war which opened the way to a new front of donors activity – development of new liberal and democratic societies, based on empowerment of local communities and different form of civic society organisations. These new development policy has reinforced the position and enlarged the field of activity of international NGOs. The old humanitarian NGOs and new democratic governance oriented ones became progressively a professional instrument and privileged channel of foreign aid not only for social and economic but also for political, decentralised development, first in developing and than in post communist countries. One of the most important objectives of this aid was to facilitate a development of civic society organizations in developing as well as in post communist countries.

2. Development of the civic society after the fall of communism.

The end of communist regime in CEE countries has opened the way to a very dynamic development of civic sector. But, the bases for this development were built much earlier. In fact, despite of political and legal limitation, these countries have had mature and developed societies, with a long and strong tradition of freedom and autonomous development of civic organisations, well before introduction of communist power. They never completely abandoned the efforts to maintain and develop some forms of nongovernmental organizations and private, independent civic institutions. The span of these activities, and degree of their independence from administrative and political control of the communist regime, has varied in different countries and in different periods. It seems worthy to rappel, that a legal framework for this type of activity existed also under communist rule, and that a progressive transfer of governmental tasks and

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1 Foundations was suppressed in Poland by the Decree in 1952 and they property was seized by the State. But they were reintroduced in Polish legal system already in 1984 by the Act on foundations of 6 April 1984.
competences to nongovernmental organizations was even considered as one of the pillars of communist doctrine of the State.

The strongest and the most independent nongovernmental institutions in this region have existed in Poland. During the period of communist rule, two private, catholic universities, certain number of private confessional schools and social institutions and many independent social and cultural associations, were functioning and have prepared the ground for one of the most important social movement in modern history which was Solidarity trade unions and many others independent associations and informal groups intervening in various fields of economic, social and cultural live.

Of course, the new political, legal, social and economic changes after the fall of communism have created much more favourable context to further development of already existing nongovernmental institutions and rapid creation of a new ones in many different spheres of social, economic and cultural activities. Many of them were, and often still are involved, more or less directly, in the transformation process in general and, more particularly, in the development of democratic system of governance and in the reform and modernization of public administration.

These development and involvement of civic sector in the transformation and modernization processes were, from the very beginning (and are till now) strongly supported by the system of foreign aid as one of its most favourite element of aid policy. This approach was built on former, disappointing experience of foreign assistance for developing countries, which proved that without an active, strong and well-organized civic society any efforts of administrative reforms have no substantial, lasting and sustainable effects.

In fact, natural conservatism and resistance to change of administrative establishment and traditional governmental educational and research institution has proven to be a very limitative factor for necessary reforms and modernization of organizational structures, procedures, methods of management, ways of doing and - even more important - ways of thinking and attitudes. From this point of view, private and civic sector institutions appears much more innovative, open minded, adaptive and pragmatic.

3. Subject of the paper.

Our paper concerns some basic problems of a very complex issue of the role of nongovernmental, non for profit private institutions in administrative reform and modernization process.

Our analyses begins with general presentation of institutional and legal framework of NGOs and their collaboration with the Government in Poland. Then, after brief presentation of third sector development in general, we will discuss some selected problems related to:

- the role and place of NGOs in administrative reform and modernisation of public management system.
- the role of private institutions in development of education and training activities in the field of public administration and public management;

Our conclusions will contain some prospective remarks and suggestions concerning future development of NGOs legal and institutional framework and the necessity of networking and collaboration, on national and regional - international level, of civic society institutions involved in public administration reform and modernisation process.

II. Legal and institutional framework of the NGOs and of their collaboration with the Government in Poland.

1. The definition and types of NGO’s.

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2 Disappearance of the communist state by progressive transfer of its function to social organisations of working class was one of the Lenin’s basic concepts and permitted to survive some forms of civic society organisations even if they were under close control of the communist party.

3 Poland has presently more then 30 thousand NGO’s of different types and their number is growing every day.
The term “nongovernmental organization” considered in the largest sense means every organization which is not a part of governmental institutional system. It includes all kinds of associations, trade unions, political parties, churches and confessional organizations, private foundations, cooperatives and even private enterprises. The common consensus is limiting the scope of this notion to non profit organisations. But even so, it can include churches, political parties and trade-unions. In general use, the term of NGO addresses to the non profit organisations created in view to satisfy, promote or defend some general interests of smaller or bigger community. Even more narrow meaning of this term is used by the European Union which is defining NGO as “a non profit, private organisation created to participate with the state in public function”\textsuperscript{4}. For our use in this paper, we will consider NGOs as: private organizations, officially and legally recognised as non profit, and acting in public interest.

There are many different criteria of NGO’s classifications. The most important for our purpose are: aims and missions, type, field and scale of activity, type and legal statute of their organization. From the legal-institutional point of view, we can divide NGOs into:

- associations, composed of members (individuals and/or moral persons) united for realisation, essentially by the members themselves, of some common objectives of general interest;
- foundations, collecting, managing and providing funds and other resources for realisation of the objectives related to the purpose of their creation;
- social institutions, created by individuals and/or legal persons in view to provide some services or goods of public (general) interest.

Considering the scale of their activity Michael Bratton is dividing NGOs, into three types:

- community - based NGOs having a small and intimate membership, run by the members themselves and relaying on limited amounts of primarily local resources;
- national NGOs having small professional staffs, providing mainly support services such as management, training, information exchange and policy representations to grassroots organisations;
- international relief and development agencies having large professional staffs, field offices in several countries and world-wide budgets. (Bratton, 1987)

Heinrich Siedentopf has introduced another relevant distinction between:

- “official” NGOs funded and sponsored by government and having rather formal and rigid organizational structures and,
- “participatory” NGOs initiated by the people and formed on community based approach taking in account their own objectives and decision making processes (Siedentopf, 1989).

Considering our definition given above, we will use classification, based on principal aim and main type of their activity. From this point of view we can distinguish:

- international, national and local foundations created to support financially and technically, and to promote development of certain types and form of activities of general interest aiming some social, economic, cultural or political objectives;
- private, non profit institutions providing some public services under control of central or local government;
- associations of physical and moral persons organizing and promoting a cooperation and common activities of general interest in some fields of social, scientific, cultural and economic development.

2.2. Legal framework of NGO’s in Poland.

\textbf{a) Constitutional foundations of the NGOs: freedom of association and subsidiarity.}

The legal foundations for NGO’s in Poland are given by the Constitution of the Republic adopted the 2\textsuperscript{nd} April 1997. Present Polish Constitution can be characterised as \textit{normative and individualistic} (Jędrońska, 1999), voluntarily in opposition to the former, communist one from 1952, which was \textit{declarative} and containing rather ideological principles then directly applicable rules of law. The new Constitution underlines individual rights and freedoms and avoids to develop collective ones. Probably for these reasons, it doesn’t use the term “non-governmental organizations” and in opposition to the old one, is not

\textsuperscript{4} This definition of NGO’s is used by European Community.
mentioning any general obligation of government to consult civic society. However it contains two fundamental principles for NGOs creation and activities: freedom of association and subsidiarity.

The principle of subsidiarity in the strengthening the powers of citizens and their communities, is formulated in the preamble to the Constitution. The principle of freedom of association is formulate in the Article 12, which precise that: “The Republic of Poland shall ensure freedom for the creation and functioning of trade unions, socio-occupational organizations of farmers, societies, citizens movements, other voluntary associations and foundations”. The freedom of association shall be guaranteed to everybody (Article 57.1) The statutes shall create a legal framework for associations, which shall specify types of associations requiring court registration, a procedure for such registration and the forms of their supervision (Article 57.3).

Present institutional system and legal framework of Polish NGOs contains associations and their unions, foundations, social organizations and private institutions submitted to special legislations, socio-professional organisations of peasants, local and professional self government associations. For our purpose we will concentrate on first three categories of NGOs and we will not take in account last two categories.

b) Associations and their unions.

The associations present the biggest group of the NGOs in Poland. During 60 years, including the period of communist rule, associations were governed by the Associations Act adopted by the Decree of The President of Republic of 27 October 1932. This act, which already originally wasn’t very liberal one, was amended twice in 1949 and 1950 in view to put the associations under still more closer political and administrative control in view to restrict their autonomy. It was replaced by much more liberal Associations Act adopted by the Parliament 7th April 1989, just after the fall of communism. This law has been replaced recently by the new one of 7th April 1997.

The Law defines associations as voluntary, self governing, durable and non profit unions founded on social engagement of their members. The associations can take the form either registered or ordinary associations. The members of Associations should be physical persons. Legal persons can only have a statute of supporting members without the right to vote. Registered associations possess legal personality, which they are obtaining from the date of their registration by the court, on presentation of their statute adopted by their members. The so called “ordinary associations” are not legal persons. They are created by adoption of their internal regulations which should precise only their name, goal, area of activities, resources and localisation of headquarter. They creation should be notified to the competent administrative authority. The registered associations can have their local representations, which in case of need can have the legal personality of their own if it’s laid down in their statutes.

In Polish legal system, associations can be empowered by a legislative act to exercise, under supervision of competent administrative authority, some public functions including authority to take individual administrative decisions and even normative acts. Taking in account their importance for general interest of whole society, certain associations can be created directly by an legislative act, but their organisation and functioning are regulated by their own statutes. The Association Act is applicable to them only in subsidiary manner. It is a case of such big national organizations as:
- Polish Red Cross regulated by the Act of 16th November 1964;
- Polish Hunting Union regulated by the Hunting Law Act of the 13th October 1995;

5 The Constitution of 1952 was using, for what we call now NGOs, the term of „social organisations” supposed “to assemble citizens for active participation in political, social, economic and cultural life”. It proclaimed that the Polish People’s Republic is “guarantying citizens’ participation in government”, that “every public authority and administrative organ shall found their activity on conscious and active participation of the masses” and that “the citizens participate in social control, consultations and discussions over the key problems of the country development”. All this could sound like a model of civic society and participative democracy but it was only an empty slogan and, in reality, has had a very little to do with this type of governance. Nevertheless, this kind of declarations is modelling somehow social conscious and has certainly originated some expectations for future.

6 the first one is something in between trade unions and professional self-government and the second one is presenting an important but very specific case of free association of public institutions which should be treated separately.

• Polish Union of Voluntary Firemen regulated by the Act of the 24th August 1991. We can classify in this category also the associations of authors, artistic performers, producers or radio and television broadcasting organisations called “Organizations for the Collective Administration of Copyright and Neighbouring Rights” laid down by the Act on Copyright and Neighbouring Rights of 4th February 1994. These specific kind of associations, whose statutory objective is the collective administration and protection of rights entrusted to them by artists and performers, are acting on the base of a permit delivered by the Minister of Culture and under its supervision (art.104).

c) Foundations.

Well developed and having a very long tradition in all central Europe, the institution of foundations was abolished and condemned by the communist regime as a typical institution of capitalistic society. But in Poland foundations were rehabilitated and readmitted relatively early, by the Foundations Act of 6 April 1984. Put in the beginning under strict administrative supervision, the foundations were placed mainly under judicial control by much more liberal legislation introduced the 23ed February 1991. The law is not giving any legal definition of a foundation, it precise only that foundations can be created for realisation of socially or economically useful purpose, conform with fundamental interests of Polish Republic.

Following Polish doctrine, foundation is an organizational entity endowed with legal personality, provided by a founder (or founders) with property assigned to realisation of a concrete purpose and durably linked to it. The purpose of the foundation should have a character of public utility (Janowski, Taracha, 2000) and from this point of view they are considered always as public institutions.

The foundations in Poland can have various legal forms and source of finance. They can be private law foundations created by a civil law act expressing the will of private founders (general case) but they can be public law foundations as well, created by a legislative act. Special type are presenting foundations, which are benefiting of public resources. They can be created especially in view to manage foreign aid funds. It’s, for instance the case of Foundation for Development of Financial System or Foundation for Public Administration Development benefiting and managing the PHARE founds, which can be classified as typical QUANGOs. In certain cases the State Treasury can be one of the founders supporting foundation with some budgetary subventions.

Polish jurisdiction is considering private law foundations, created by private persons, as NGOs but not as “social organisations” and for this reason they can’t be endowed, as it can be the case of certain social organisations, with authority to deliver any external administrative acts.

The Foundation Act precise the conditions which shall be fulfilled for creation of a foundation which are verified by regional court. Foundations can be created by a notarial deed or by testament and are obtaining legal personality when registered (after judicial control) in the National Judicial Register. They can be created by moral as well as physical persons.

Certain authors distinguish non profit foundations, which can’t conduct any economic activity and are obtaining their means from other resources (original found, donations, subsidies), and non for profit foundations, which are conducting an economic activity being their main or one of their principal resources. In the second case the revenues originated by their economic activity should be assigned to realisation of their objectives and the costs of their functioning (Janowski, Taracha, 2000).

d) Private, non for profit institutions submitted to special legislations.

Polish legislation admits also existence of some private and non for profit institutions, which are also classified as NGOs. Acting mainly in the field of social, cultural and

8 The foundations in Poland can be created by a legislative act as a autonomous governmental institution and not as a NGO. It is the case of the Ossolinski National Institute Foundation created in 1995 and the Centre of Public Opinion Research Foundation created in 1997. In our paper we are considering only the private law foundations and only those which were note created by the Treasury or other public institution.

9 It’s a typical case of Quasi Non Governmental Organizations initiated by foreign donors, which prefer this kind of institutional framework thinking that makes them easier to control the management of their founds and that autonomous management of these founds, out of supposed rigidity of public finance system is more effective. But there are also some side effects which are strongly criticised. In fact, these forms of management put out of democratic parliamentary control a big part of public financial resources (in Poland different types of quangos are controlling presently more then half of them), which are not transparently managed and often suspected to be used for political, partisan purposes.

10 Judgement of Supreme Administrative Court of 10th February 1994.
educational activity, they are regulated by special legislation concerning each of these fields. Among these institutions are also university level private schools, some of them delivering Public Administration Programs. Their creation and activity are regulated by the Superior Education Act of 12th of September 1990, which contains certain special provisions concerning non governmental schools, but general mission and most of principles of organization and functioning are applicable for governmental as well as non governmental institutions of university level education.

A non-governmental establishment of higher (university level) education can be created by physical or legal person, named “founder” on the base of concession delivered by the Minister of National Education after opinion of the Principal Council of Superior Education. The concession precise the fields (domains of speciality) of teaching and research as well as type and level of programs and diplomas, which the establishment is authorise to deliver (bachelor, master or doctorate programs and degrees). Foundation act should have the form of a notarial deed, which precise who is the founder, the name of establishment, its localisation, general field of activity, provenience of its resources and mode of finance. The first statute of non-governmental establishment of superior education is given, for first year of its activity, by its founder, then it should be adopted by the Senate of establishment. It shall be approved by the Minister of National Education. The new establishment obtains its legal personality when registered in the special register kept by the Minister of National Education. The non governmental establishments of superior education are functioning under supervision of the Minister of National Education who can suspend the activity and even order the liquidation of the establishment which is violating legislation, statute of establishment or the terms of concession. More then hundred of the establishment of this type are already functioning in Poland and many new applications are waiting for the concession.

2.3. Legal and institutional framework, fields and forms of collaboration between NGO’s and Polish Government.

The collaboration between NGOs and central and local government is taking mainly two forms:
- NGO’s participation in public policy formulation;
- execution of certain public tasks and competences transferred by the government to the NGOs.

In the first case, the principle and forms of this collaboration are formulated, by the legislation and internal regulations concerning institutional framework of governmental activity. In the second case, they are regulated by the legislation concerning different fields of governmental intervention.

The legal framework of Government – NGOs collaboration is not well defined yet. However it presents a permanent subject of government concern. There are no special, general act regulating this question in details, but the preparation of such an act is well advanced. However, some general principles of this collaboration, like obligation to consult NGOs opinion in preparation of new legislative projects, or possibility to create joint commissions for the affaires of common interests, are already formulated in present regulations concerning organisation of the governments activity\(^{11}\). Also recent legislation

\(^{11}\) The Cabinet’s Organization and Mode of Work and Scope Ministers, Activity Act of the 8th of August 1996 stipulates that the Members of the Cabinet Council executing the policy adopted by the Cabinet shall collaborate with NGOs (art. 7 § 4 pt.1). The Cabinet Council can take initiative to create joint commissions
of public finance\textsuperscript{12} contains some general principles of financing by the government the
realisation of public tasks transferred to NGOs. It introduces the principle that the
realisation of tasks financed by public founds is open to everybody, including NGOs, if
the law doesn’t stipulate otherwise. It precise, more concretely, that the entities, which are
non belonging to the public finance sector institutions, including foundations and
associations can benefit of earmarked subsidies for execution of public tasks trusted them
by an agreement with public institution disposing of the budgetary founds (art. 69 § 4 pt.
d and art.71).

The legislation regulating different sectors of the State intervention indicates the fields
and forms of collaboration of public administration with NGOs, which can be involved in
formulation and assessment of public policy or be entrusted with the realisation of certain
public tasks. These possibilities are particularly developed in social, educational and
cultural sectors as well as in the protection of environment and regional development.

The institutional framework of collaboration is not very stable. It is changing, evaluating
and searching its way following institutional reform process. General problems related to
the NGOs position in Polish governance system and their collaboration with public
administration are handled directly at the Prime Minister level (Chancellery of the
President of Government Council). In the period of 1997-98 existed a Prime Minister’s
Plenipotentiary for Collaboration with NGOs with the rang of a State Undersecretary
(Collaboration, Report 1998). But the Prime Minister Office’s structure is changing every
year and this function has already disappeared. Presently, these questions are handled
mainly by the special Task Force for Systemic Solutions concerning Collaboration
between Public Administration and NGOs and Institutional Position of the
Nongovernmental Sector in Poland chaired by the Vice- President of Government
Council, Minister of Labour and Social Affaires. The Task Force was created by the
Prime Minister Decree of 31\textsuperscript{st} of January 2000. Its tasks include:

- initiation of necessary changes in systemic solutions concerning nongovernmental
  sector in Poland;
- monitoring, coordination and supervision of preparatory works for legislative and
  systemic solutions concerning institutional position of the NGO’s sector in Poland
  and its collaboration with public administration;
- assessment of already existing legal and institutional framework of the NGOs in
  Poland;
- expression of its opinion concerning proposals presented by the representatives of
  the NGO’s sector.

The Vice Prime Minister Secretariat is securing technical and logistic support of the
Team. It coordinates the collaboration with NGOs and is:

\begin{itemize}
  \item\ composed of representatives of the Government and concerned NGOs in view to elaborate a common
        position concerning the subjects important for governmental policy and for interests of these NGOs;
        The Cabinet’s Council Resolution of 25\textsuperscript{th} of February 1997 concerning Cabinet’s Council Work
        Regulations introduces the obligation to include in the statement of motives of every project of a normative
        act, the description of the social consultation and public debates concerning this project and the information
        about presented opinions and alternative solutions (§ 9 pt.2). The organ presenting such a project can
        postulate to address it to the social organizations and other interested institutions for opinion (§10, pt.4).
        The Domains of Governmental Administration Act of the 4th of October 1997 precise that every minister shall
        collaborate with NGOs acting in the domain(s) of his responsibility. This general obligation is completed by the
        references to NGOs activities in the description the governmental responsibilities concerning different domains
        of its activity.
  \item\ \textsuperscript{12} Public Finance Act of the 1\textsuperscript{st} January 1999, a new amendment of this act will be presented soon to the
        Parliament.
\end{itemize}
• formulating opinions concerning the demands of subsidies for NGOs initiatives;
• organizing meetings and conferences;
• realising analyses and coordinating legislative activities concerning NGOs on behalf of above mentioned Task force;
• collaborating with Stefan Batory Foundation (Polish branch of Open Society - Soros Foundation), Polish-American Freedom Foundation and Network of NGO’s Support;
• transmitting NGO’s sector requirements to the competent public bodies (Collaboration, Report 2000).

The Prime Minister has his own Adviser for NGO’s Affaires too. His role is to secure Prime Minister contacts with NGOs, react on their signals and solicitations and to collect their opinions concerning different legislative projects and/or reforms initiatives13.

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13 In 2000 budget, the Prime Minister Office has spend more then 3,5 millions polish zlotys for collaboration and subsidies for NGOs (Collaboration, Report 2000).
2.4. Some weaknesses of present legislative and institutional framework of the NGO’s collaboration with the Government and prospects of its future development.

Polish legal and institutional framework of the NGOs is not yet entirely satisfactory and complete. The Polish Government attaches a big importance to the development of civic society and the effective collaboration with the NGOs in the transitional process as well as in realisation of public administration’s everyday activities. But, as we could see above, it is still searching for an adequate legal and institutional framework for it. Present situation is considered unsatisfactory both for the government and NGOs. The NGOs are considering that they should be more harmoniously and effectively integrated in global social system and Government is sharing this opinion and has created a special institutional framework to find a good solution benefiting for it of an important foreign financial and technical support. But, a satisfactory solution for all interested partners proves to be difficult to find.

The biggest network of Polish NGOs, the Association for Nongovernmental Initiatives Forum, has presented to the Government more then two years ago the “Memorandum on complex regulation of NGO’s and voluntary organisations’ legal conditions of functioning” (December 1998) signed by 400 organizations. It underlines the importance of the third sector in a modern, democratic society and declares that the suppression of an administrative control and the freedom of association is not enough. It considers that redefinition of the relations between the State and NGOs is necessary and should be considered as one of fundamental reforms of Polish governance system. This reform should be based on three principles:

- The NGOs should have a right to participate actively in the definition of public tasks which implies the obligation of the State to inform them about its strategies and programmes (partnership).
- The State should create effective mechanisms of transfer to the third sector of these social tasks which can be realised by self organising civic society (subsidiarity).
- Supporting, also financially, the development of civic society institutions the State will contribute in long term to reduce its expenditures and to attenuate social tensions (efficiency).

The Memorandum postulates the preparation of a legislative package and a strategy of government’s collaboration with civic society institutions. This new legislation should secure:

- more precise differentiation from commercial sector as well as from governmental sector;
- partner position towards public authorities;

Wiśniewski remarks, that Polish legislation doesn’t contain a simplified and very useful form of organizations based, as foundations, on property substratum, known as trust in Anglo-Saxon and as Treuhand in German legal systems. He considers also, that it would be useful create a special legal framework for the organizations created for realisation of public tasks by the government or by the local self-government. These organizations could take form of nongovernmental public foundations, public associations or public institutions created by an Act of Parliament or a competent local self-government body (Wiśniewski,1999, p.18).

Four other reforms introduced by the present government were: decentralisation and creation of two supplementary tiers of local self government, reform of social security system, reform of public health and reform of public education.
• legal conditions of the State public tasks’ take over;
• better conditions of its development by a specific legal framework for economic non for profit activity.

A new strategy and special governmental support program should aim the suppression of existing regional and sector disproportions in development of organisations, development of the third sector training, organisational and financial infrastructure, and reinforcement of smaller organizations which are executing important, public tasks. The Memorandum postulates creation of a new legal form of the “NGOs of public utility” which will define the conditions and procedure of recognition of their privileged status and specific principles of their functioning. It asks also the Government to orient a much bigger part of EU technical and financial support for development of civic society.

The creation of the Task Force proved that Government shares the opinions expressed in the Memorandum. It agreed also with EU Commission to include among the PHARE program objectives the preparation of a new legal framework for NGOs activity as well as training activities for civil servants concerned by the collaboration with NGOs. Two years later a new legislation is not yet adopted but has a good prospects to be adopted soon car a draft of the Act on collaboration of public administration authorities with NGOs was approved last year by the Government and is in the pipe line of legislative process16. The draft recognises partnership, subsidiarity, efficiency and transparency as fundamental principles of collaboration. Basic forms of this collaboration are:

• mutual information about planned activities and collaboration in view of their harmonization;
• consultation with NGOs of drafts of fundamental options concerning the fields of their statutory activity;
• support of NGOs activities undertaken on their own initiative in the domain of public tasks important for supporting authority;
• delegation to NGOs of public tasks based civil law contracts.

The draft introduces a new type of NGO called “organisations of public utility” (OPU) which statutory activity consists of realisation of public tasks. An ONG, under some restrictive conditions, can be recognize as an OPU when registered in the National Judiciary Register. Such OPU will benefit of important fiscal privileges, could obtain for its statutory activity, free of charge a perpetual usufruct of a ground belonging to the State Treasury or local self government and even property of buildings situated on this ground. The OPU could employ the persons on substituting military duty. Public media will have obligation to give them, free of charge opportunity to inform public of their activity. Finally, they could organize public collect of founds without any special concession. As a counterpart for these privileges, the OPU will be placed under the supervision of central administrative authority.

16 In April 2001 a new, slightly different draft of this Act was presented to the Government by the group of NGOs and about 15 members of the Parliament. A new campaign supporting this draft was launched in view to collect at least 100 thousand of signatures under the petition asking the Government to accelerate legislative process of this Act and to adopt it before the end of present term of the Parliament (October 2001).
III. Role and forms of NGO’s involvement in the development and modernization of education in public administration in Poland.

1. General outlook on present development of the NGOs in Poland and their involvement in administrative reform process.

The NGOs are already presenting in cee countries a very impressive potential of social activity. In Poland, more the 30 000 already existing NGOs are employing about 200 000 employees and about 2 millions of volunteers and that numbers are constantly growing. The big number of these NGOs are constantly collaborating with central government and/or with different tiers of local self government.

The development of the NGOs was favoured and stimulated by the synergy of different forces (and resources). First of all it was a dynamic initiative of civil society on the community level and already existing third sector institutions (especially catholic church), liberated from restrictive policy of communist regime. Secondely, it was a multiform support from abroad helping institutional building of a modern democratic system of governance with an important role played by civic society organizations. The development of NGOs was also facilitated and encouraged by successive governments.

The support from abroad have played in Poland (like in other post communist countries) a very important role in development of civic society institutions. This support can take different forms. One of the most effective, which started already under the communist rule, was implementation of local representation and national branches of international NGO’s and foreign foundations (international and national) promoting civic society and democratic values. They have organized and financed a lot of very important programs in this field. They have also prepared technically (and supported financially) the development of their national partner foundations and other forms of NGOs which could later take over many of these programs and develop a lot of new ones.

An important role was also played by international and national scientific associations specialised in social, economic and political sciences. Poland was one of the founding members of the International Institute of Administrative Sciences – IIAS and, even if its relations with IIAS were loosen during communist era, they were maintained all the time as well as with the International Association of Schools and Institutes of Administration IASIA and with the European Group of Public Administration – EGPA, European Association of Development Research and Training Institutes –EADI and many other scientific organisations. After the fall of communist regime these relations were activated and are constantly developing. Polish scientific and research organizations are also active from the beginning in the NISPAcee. All these institutions were effectively contributing to the development (or creation) of their partner associations and governmental as well as nongovernmental institutions in all post communist countries. They are playing presently a very important role in developing international networking activities involving and favouring an active participation of their cee institutional partners as well as individual experts.

The role of the Government in developing civil society organisations was manifold. It has created a more democratic and favourable legal framework for their development, it involved them in realisation of reform programs and it contributed in financing of their activity.

2. The role of big centralised NGO in the public administration reform and modernization process.

The role and place of the NGOs in the administrative reform process in transitional societies is constantly changing. At the beginning, national NGOs able to participate in this process simply didn’t exist and their development was one of the most important objectives of reform program. In this situation it were mainly international and foreign NGOs which brought their know-how and have financed with other donors some administrative reform activities. They were playing a crucial role introducing a program and project approach practically unknown in public sector of the socialist countries. In the same time, the foreign NGOs

17 Soros Open Society Foundation, Amnesty International, Transparency International, Fridrich Ebert Foundation, Konrad Adenauer Foundation, etc.
18 From the status of a member state before the war this relations was reduced to only one institutional member, namely Polish Academy of Sciences (Institute of Juridical Sciences).
19 Poland has recently recovered its position of the member state of IIAS and have growing number of the institutional and even individual members of IIASA, IASIA, EGPA and EADI.
were developing national capacities involving and training national expertise and promoting and financing
national NGOs institutional development. These activities, conducted in close collaboration with the
Government and main foreign donors, have permitted to create certain number of strong, centralised NGOs.
This NGOs, mostly foundations, are generally politically oriented. Their mission is to assist technically
elaboration, promote adoption and help implementation of political, economic and social reform programs
supported by the political milieu sharing the same or similar ideological and political options. This
approach is supporting and legitimating the policy of friendly Government or defending and supporting its
options and already initiated reform programs when political opposition took over.

The foundations of this type are not only financing but also developing their own institutional framework
for program realization. They are attracting the best competences and skills from public institutions sharing
similar ideological, political and technical visions. They are recruiting well known professors and other
scientific staff, mainly in public universities and research centres but also among politicians and politically
appointed high ranking civil servants which have lost temporarily their position. The recruitment is
facilitated by the possibility to offer complementary, generally much better remuneration20 and personal
satisfaction of participation in the programs conform to scientific opinions and political options of their
own.

The competencies, reputation and network of personal relations of their staff and collaborators, inside the
country and abroad, give them a strong, if not monopolistic, position in public tenders for realisation of the
programs financed by foreign aid like PHARE program. In fact, in transitional societies (like in developing
countries) and thanks to extensive foreign aid, important consultancy market of programs and projects has
been developed in which foundations and other NGOs are playing very important role. They are competing
or creating common consortia with other Polish NGOs and private (often for profit) local or foreign
consulting firms.

We can illustrate this phenomenon on the example of the Institute of Public Affairs. The Foundation
Institute of Public Affairs (IPA) was created in 1995 "in view to secure a scientific and intellectual
background for the debate on modernization of the country rolling by in Poland"21 Following its statute, the
IPA is in charge of :

- realisation of projects useful for the public life;
- initiation of public debates;
- taping up socially important questions and warning about future dangers;
- presentation of new ideas helpful for solution of present and future problems;
- bridging science and praxis from one side and scientific, political, journalistic and social activists
  milieus.

IPA is conducting its research and consulting activities, mainly in the frame of its 5 big programs: Reform
of Education, European Integration, Centre of Constitutionalism and Legal Culture, Social Policy and
Public Administration Reform. It has a small scientific and administrative staff of his own and is benefiting
of the collaboration of about 300 researchers politicians and practitioners. It has already published more
than 300 books, research reports, expertises, opinion and recommendations.

IPA describes itself as an nongovernmental and supra-partisan research centre. But it is a nobody’s secret
that it was an initiative of the reformist milieu of the rightist coalition which lost the elections and power
on behalf of post communist coalition of social democratic and peasants parties. The former wanted to
preserve its capacity to prepare and monitor the reforms they had no time to finish. Many eminent
politicians and reformers of former coalition have found there their place and possibility to continue their
big work waiting for their come back to power. This solution proved very effective and after new elections
and return of rightist coalition, four big reforms: Decentralization, Education, Public Health and Social
Security System. This fundamental reforms could be rapidly finished, adopted and implemented not only
thanks to the sole work realised in the frame of IPA activities. The last has had a leading position but the
reformist movement was supported by the collaborating network of many others NGOs favourable to these
programs.

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20 Practically all of the staff members which come from public sector institutions are keeping their original jobs
at public universities and research institutions. Nowadays, to have at least three parallel employments is rather
general rule than an exception in this milieu.

21 As stated in the presentation leaflet of the IFA.
However, this positive synergy of the new Government and NGOs supporting its reform programs gave not only a very impressive results. The outcomes of these reforms were often very disappointing and unforeseen negative side effects of not very well prepared reform measures have conducted to a big deception and widespread dissatisfaction of the large part of public opinion and will probably conduct to the loss of power by presently governing coalition.

This very interesting example demonstrates that selective collaboration by the Government only with politically coloured friendly NGOs issued of the same political family can be very helpful and facilitating decision making process. But insufficient transparency and lack of involvement of more critical and politically independent scientific milieu in the preparation of reform programs can bring disastrous consequences of implementation of ill and to optimistically conceived reform measures.

3. The role of private non for profit institutions in the field of civil servants and public managers education and training.

Education and training are one of the most significant field of a spectacular development of NGOs activity in Poland. Despite of communist propaganda, this sector was largely underdeveloped in comparison with western democracies and public educational system has had a very limited capacities to meet the needs and aspirations of liberated post communist societies. This problem was particularly serious concerning higher education.

But in Poland some private confessional establishments of secondary and higher education have survived under communist rule and the fact of their rapid development after the fall of communism is not really surprising. Eleven years later, exist in Poland 197 non governmental schools of superior education with more then 400 000 students (out of 1.4 million polish students). 337 other applications are waiting for agreement of the Minister of National Education. 43 of these schools are delivering master degree programs and 54 others have applied for authorisation. Two schools are already entitled to deliver a doctor degree and two others have submitted their application. Most of these schools are carrying also post graduated specialised courses. Among them the biggest success have MBA programs organised jointly with foreign, American or European universities. All these schools are organizing also different other training activities (seminars, conferences and in service training courses). Overwhelming majority students in these schools are working and following evening courses22. Big part of them is working in public administration or other public sector institutions, many others expect to work in public sector once they are graduated. The students of non governmental schools are paying fees (400 – 1000 Euro par semester)23. This type of activity started in Polish universities already in early 1960s and was well developed in state universities especially concerning administrative studies24.

This development is particularly spectacular in the field of business and financial management but also education in public administration was developing very fast. Currently, about 30 nongovernmental schools of higher education are carrying public

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22 Actually, the courses are organised during three days every two weekends (such session comprise generally about 21 hours of didactic activities)

23 The students of state universities in Poland attending this kind of “evening courses” for working people are paying fees too. Nowadays, only students selected for ordinary, daily programs are not paying fees.

24 with the creation of an undergraduate (bachelor level) programme called “Professional Administrative Studies”, attached to the Law Faculties and intended to train rapidly, on evening courses, a large number of people already working in the public sector and party apparatus. They were often high ranking governmental and party officials fearing to loose their position and be replaced by a younger and better-trained generation. In the early 1970s a supplementary two-year programme was developed, mostly for the same population who wanted now to obtain the same level of education as all young people finishing their studies. It gave them the opportunity to obtain a Master in Public Administration degree, also by attending evening classes. Starting from this moment all Law faculties were renamed Faculties of Law and Public Administration. Subsequently these faculties started an ordinary 5 years MPA programme for day students. Because of the large number of candidates for evening courses, each Law and Administration faculty has opened subsidiary centres. Some of these later became independent faculties or private schools of business and/or administration, which started to spread very quickly after the end of communist regime. Nowadays, every regional and even some sub-regional towns have its own university level private institution witch offers at least a bachelor and sometimes a master degree PA program.
administration bachelor degree programs and about 10 master degree. We should remember that also political sciences, law, finance and business management studies are preparing for the carriers in public sector. We should add to the list post graduate professional programs. It is difficult to establish exact number of those offered by this type of school and concerning more or less directly public sector, because they don’t need an official accreditation by the Ministry of National Education and are not registered. But there are many of them and new one are launched every year.

Administrative studies in Poland were and still are largely dominated by the study of Law and more particularly constitutional and Administrative Law. The autonomy and specificity of administrative studies were never, and remain till now, not entirely recognised. Subsequently the professional profile of a Public Administration or Public Management specialist is not recognised too and a graduate of administrative studies is rated much lower than a law graduate. The situation looks better concerning in-service training programs. This is due to much stronger involvement of international technical co-operation in this type of training activity. But even there the references concerning Polish practice or researches in the field of public management are very few and training programs are necessarily more theoretical then practical.

However, thanks to the development of private schools more or completely independent of traditional Faculties of Law and Public Administration, this situation is starting slowly to evolve in the right direction. This is notably the case of schools of business which have developed a Public Administration Program. In such a context a program, open for modern Public Management and more interdisciplinary approach, have much more chance to be accepted by the school scientific council (Senate). Generally, this tape of schools are developing not only regular undergraduate and graduate programs but also are developing different training activities and specialised post graduate programs. Lot of them have also international links and are closely collaborating with different foreign universities. Warsaw Leon Koźminski Academy of Entrepreneurship and Management created 7 years ago, can be taken as one of the leading example of such institution. Ranked as the best private Business School in Poland with a very wide recognition abroad, LKAEM have decided recently to develop also a modern Public Administration Program. Among its eleven post graduate programs it has also a very successful MBA in Public Health Management and is systematically organising training activities in Public Finance for local self government. Its bimonthly review Master on Business Administration is one of the rare Polish reviews regularly publishing articles on Public Management. The school is entertaining its international scientific relations in this field as institutional member of IIAS and NISPAcee and is participating actively in the works of (Polish) Association of Public Administration Education (APAE). This association created two years ago has started recently to prepare new threshold standards for PA undergraduate and graduate programs to be officially approved by ministerial Accreditation Commission. The LKAEM is playing a leading role in their preparation. The guidelines have already been discussed last year. The first draft of these standards will be discussed soon during the APAE annual conference.

IV. Conclusions.

1. Necessity of reinforcement of NGO’s institutional position and efficiency of their collaboration with Government in realisation of public tasks.

The NGOs are presenting a very essential form of realisation of constitutional principle of subsidiarity and privileged instrument of dialog between government and civil society. The global quantitative development of Polish NGOs is impressive. But there are big quantitative as well as qualitative differences in different regions and different fields of their activity. The legal framework of their financing and collaboration with different levels of government is also not entirely satisfactory. If adopted, the new NGO’s legal framework will certainly favoured their more active involvement in realisation of public tasks and their better collaboration with all levels of government. But the Government hasn’t adopted yet any general strategy or concrete action plan in this domain and even the most favourable legal

25 The authors of this paper have already presented the guiding principles and first draft of proposals of these standards at the annual meeting of AEPA held last May in Wigry (east-norther Poland). The assembly accepted the proposed approach and decided to create a working team, headed by the author, to complete this job before the next annual conference to be hold May 2001.
framework can not replace a political will, not only expressed in general declarative manner but also translated on concrete program, containing precise targets and effective monitoring system\textsuperscript{26}.

The legal framework should be complete by an ethical code of conduct governing not only relations between different level of government and NGOs but also between different NGOS acting in the same field of activity and more and more often competing for constantly reducing source of financing.

2. The necessity of reinforcement of networking and collaboration between civic society institutions involved in public administration research and education

The NGOs involved in public administration acting in the field of public administration research and education should develop more dynamic and effective networking and collaboration both on national and regional level.

A reform of education and training in public administration, including programs as well as methods of teaching and learning, should be based on a strategy of education which is built upon a reviewed and updated theoretical background and elaborated in collaboration of all stakeholders: not only employers, governmental bodies in charge of educational system and public training and research institutions but also private training institutions and all civil society organisations concerned.

The creation and successful development of Polish ENA in 1990, combined with a dynamic development of university level private schools offering BPA and even MPA programs can be considered as expression of an implicit new policy of development in this field. Presently, these private schools are offering more and more often PA programs challenging traditional faculties of Law and Administration which are continuing to offer ones conceived 35 years ago. While traditional state universities are using their privileged position in the Ministry of Education to protect their traditional approach, many of new private training institutions, collaborating closely with foreign partners in the Europe Union and beyond, are updating and modernising their PA programs.

The research in the field of public administration and public management should be developed not only in the state run universities and research institutions but also in nongovernmental establishments of higher education, private research institutions and by, much more active then now, scientific associations.

The necessary development and modernisation of education and research in this field can’t be effective without significant reinforcement of a horizontal networking and more effective collaboration, at the national level, of all public sector institutions, foundations, associations and non governmental educational and training institutions involved or concerned by the modernisation and democratisation of public administration system. Presently, this networking and collaboration is much more developed on international then national level. This top – down approach is very useful but can have only limited effects. Promotion of horizontal networking and bottom-up collective initiatives of its members could become a new NISPAcee approach which could contribute to more effective collaboration of public and nongovernmental institutions in public administration reform and modernization process.

References.


\textsuperscript{26} Programming and controlling seems to be one of the weakest points of governmental activity in post communist countries. In administrative reform process, too much importance is given to modification of legal framework and not enough to strategic management and policy implementation.


12. *Memorandum concerning a complex regulation of the NGO’s and voluntary services legal framework of functioning*, prepared by the Association for NGO’s Forum of Initiatives, Warsaw, December 1998 (in polish);


