Administrative articulation: cultural aspects of a public management reform*

Articulação administrativa: por uma reforma cultural da administração pública

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ABSTRACT

In the last few decades the need for a deep administrative reform in Brazil has been discussed and it has been sustained the choice for a Managerial public administration as a model. However, at some levels, there was not even the transition from the Patrimonialist public administration to the

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bureaucratic one. Therefore, the public decision-making has been casuistic; aimed at the personal interests of the detainers of power; concentrated, especially in the federal government; obscure and uncoordinated among entities, public agencies and public officials. In this context, this essay intends to address the need for administrative coordination and articulation as a step towards achieving the effectiveness of a Public administration, whose actions and policies produce results. The current rules of Decree-Law no. 200/67 on the subject and the proposal of a Draft of general rules for Public administration will be explored.

KEYWORDS

Managerial public administration — administrative articulation — administrative reform — cultural aspects of public management — draft of general rules for public administration

RESUMO

Há algumas décadas, discute-se a necessidade de uma profunda reforma administrativa no Brasil, defendendo-se a adoção de um modelo de administração pública gerencial. No entanto, em alguns níveis, nem sequer houve a transição da administração pública patrimonialista para a burocrática. A tomada de decisões públicas tem sido casuística; voltada a interesses pessoais dos detentores de poder; centralizada, especialmente na União; obscura e sem coordenação entre entidades, órgãos e agentes públicos. Nesse contexto, este artigo pretende abordar a necessidade de articulação e coordenação administrativas como um passo para se alcançar a efetividade de uma administração pública gerencial, cujas ações e políticas gerem resultados. Serão abordadas, principalmente, as normas do Decreto-Lei no 200/1967 vigentes sobre o assunto e a proposta do Anteprojeto de normas gerais para a administração pública.

PALAVRAS-CHAVE

Administração pública gerencial — articulação administrativa — reforma administrativa — cultura da administração pública — anteprojeto de normas gerais para a administração pública

1. Introduction

In times of deep institutional crisis and low-level trust in authorities and power structures, it is an opportune moment to extend discussions on democratic governance and administrative policies. In this regard, the decision-making processes in public administration have been systematically centralized, obscured and uncoordinated among the various spheres and public bodies. As a result, there is a need for administrative reform, which results in gains in efficiency and effectiveness. These dictates were consolidated in the search for a managerial paradigm of public administration.

In this way, to tackle with increasingly complex problems and multidimensional aspects of the current scenario, it is necessary for the organizational structure of public administration take a brave leap and structure itself according to a public governance model, which, unlike current public administration practiced in Brazil,[1] is characterized by co-production and co-management of public policies.[2]

This is the new 21st century configuration of public administration, referred to by some authors as consensual public administration, characterized by the sharing of authority in a network, in which State involvement occurs in a joint, effective, transparent and shared way. This structural change requires the development of new administrative capabilities, related to planning, management and communication, so that there is dialogue and cooperation toward the construction and execution of plans, objectives and goals, in the internal scope of public administration and externally in relation to society.[3]

The development of integrated public governance models involves implementation of coherent and systematic administrative practices that contribute to institutional performance. To do so, it is necessary to adopt

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1 Note that the expression public governance is associated with a new form of public management of a democratic and managerial nature. However, nothing prevents the use of the term public management, as long as it is not a patrimonial or bureaucratic model, but focused on the production of results (managerial).

2 MARTINS, Humberto Falcão; CUNHA, Luiz Arnaldo Pereira da. Organização governamental — problemas e soluções em perspectiva conceitual e da administração pública brasileira. In: MODESTO, Paulo (Org.). *Nova organização administrativa brasileira*. 2. ed. Belo Horizonte: Fórum, 2010. p. 352.

3 SCHWANKA, Cristiane; OLIVEIRA, Gustavo Henrique Justino de. A administração consensual como a nova face da administração pública no séc. XXI: fundamentos dogmáticos, formas de expressão e instrumentos de ação. *Revista da Faculdade de Direito da USP*, v. 104, p. 303-322, Jan./Dec. 2009. p. 303. Available at: www.revistas.usp.br/rfdusp/article/ view/67859. Accessed on: 28 May 2018.

coordinated actions in the performance of public administration, so that the efficiency principle is respected. In this light, the objective of this work is to reflect on the lack of coordination in current administrative practice, as well as encourage articulation between the actors involved, especially in the coordination of efforts in the decision-making process, to contribute to integration, simplification and unification. This is one of the most pressing challenges of public administration: the creation of new governance models that reconcile legal certainty with procedural simplicity.

The article will mainly consider existing rulings on the issue in Decree-Law 200/1967, as well as the normative proposals on the subject of the Preliminary Draft on general norms for public administration. For this purpose, the methodological procedure of content analysis was used and mainly secondary data were collected, for better understanding of legislative proposals and current laws on the subject.

2. Administrative articulation for democratic and efficient performance of the public administration

First, it is necessary to clarify precisely what is meant by administrative articulation. According to Maria Coeli Simões Pires:[4]

> administrative articulation, in a restricted sense, is, according to the democratic model, a relational technique of nuclei of competences or officials, of decision-making or executive processes of public action, which allows the rationalizing of efforts and use of means, in an environment of consensual coopeation and legitimacy, for the achievement of results and sharing of responsibilities.

Thus, the adoption of articulation measures in state action involves a change in the decision-making method involving the various nuclei or competent agents with regard to a given action. The goal is to obtain a more democratic decision, through the expansion of participants, as well as a more

[4] PIRES, Maria Coeli Simões. Esgotamento do modelo de desenvolvimento excludente no Brasil e ressemantização das atividades de planejamento e articulação governamentais à luz do paradigma democrático. In: Paulo Modesto, *Nova organização administrativa brasileira*, op. cit., p. 186.

efficient result, as this combination of efforts has the potential to improve rationality and the quality of the decision taken. Thus, the ideal of articulation is in line with the paradigm of managerial administration, which is oriented towards results, towards the needs of the citizens, from a political perspective, and consumers, from an economic perspective.[5]

Similarly, Brugué advocates the transition from a bureaucratic to a post-bureaucratic model, which replaces segmentation with co-communication, verticality with coordination, unidirectionality with bidirectionality and authority with interaction. Thus, the loss in efficiency and the democratic deficit of the public administration is recovered. In this organizational model, each public official, office and entity is responsible for institutional performance, in a dialogic, coordinated, interactive and articulated structure.[6]

According to the concept initially put forward, the administrative articulation involves several dimensions of integration, including: i) a collaboration between federative entities; ii) inter-organic cooperation between the various bodies; iii) inter-sectoral, thematic and functional action.

The creation of collaboration networks between the Union, states, Federal District

(DF) and municipalities is central to the effectiveness of Brazilian federalism, but is still not enough. To achieve true federalism, i.e., a balance in the distribution of competences, in the administrative infrastructure and the allocation of resources between the entities, it is necessary to form partnerships. This is because, in the current scenario, the Union still prevails in this respect, and, often, government locations are inadequate, especially in small municipalities.

The 1988 Constitution itself (CF/88) expressed the need for these cooperative arrangements, as established in art. 23, sole paragraph. One of these instruments is the public consortia, provided for in art. 241 and implemented by Law 11.107/2005. Through the consortia, it seeks to promote associated management of public services, in accordance with the principle of efficiency.

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5 BRESSER-PEREIRA, Luiz Carlos. Estratégia e estrutura para um novo Estado. *Revista do Serviço Público*, a. 48, n. 1, p. 5-25, June/Apr. 1997. p. 12 e 16.

6 BRUGUÉ, Quim. La dimensión democrática de la nueva gestión pública. *Gestión y Análisis de Políticas Públicas*, n. 5-6, p. 45-58, Jan./Aug. 1996. p. 52. Available at: https://revistasonline.inap.es/index.php?journal=GAPP&page=article&op=view&path%5B%5D=66&path%5B%5D=66. Accessed on: 1 July 2018.

It also reinforces centralization and dependence on the Union, the existence of significant inequality between regions and different subnational governments. In these cases, the agreements of inter-federative cooperation, are mainly between Executives, with the strengthening and consolidation of local government. However, a scenario of disarticulation dominates, governed by an ideological and partisan logic, which favors only local political allies.

In contrast to the development of mechanisms of inter-federative coordination, there is a need to respect the autonomy of local entities, established by CF/88 (art. 18), which may be threatened with federal intervention justified under the name of national coordination.

However, it is is important to recognize that normally these interferences will only be approximately coordinative; the concept of coordination outlined here involves the expansion of public agents in the decision-making process, including all of them in the negotiation and construction of the public action taken. The autonomy of states and municipalities cannot be used to undermine federative articulation, because, as, in contrast to sovereignty, it implies an inherent need for coherent and integrated action. As a result, the lack of coordination and cooperation between federal entities threatens the very existence of subnational governments, and it is not viable to rule out these collaborative agreements in favor of autonomy.

As for cooperation between agencies, it may happen in different ways. At the federal level, coordinated action can occur between ministries in the construction of a public policy, between a ministry and a regulatory agency or between two or more secretariats or departments within a single ministerial portfolio. For example, the signing of a technical cooperation agreement or memorandum of understanding between public institutions, as recently undertaken by the Autoridade Nacional de Proteção de Dados (ANPD) and Conselho Administrativo de Defesa Econômica (Cade), are typical preliminary acts for the implementation of cooperation policies. But they cannot become mere formalities.

And, finally, in a comprehensive way, there is talk of cooperative action among various public administration institutions, for sharing competences or functions in the same area, as a rule, of a transversal nature. Often, different bodies or entities responsible for sector regulation and supervision may be competent to act in their respective spheres of action. Although abstract and generality normative, these spheres are theoretically de-limitable, in practice, there can be overlapping of skills that hinder timely performance of these different institutions. Consequently, instead of creating effective regulatory

dynamics, a power vacuum opens up in which none fully exercise their functions, omissively, which is harmful to the sector.

In all these dimensions, the idea of coordination involves continuity and stability of the administrative organization. Constant instability and excessive changes in the management structure hinder internal articulation and coordination. Nevertheless, it is necessary to understand that the administrative processes are affected by party politics, which needs to be reconciled with technical perspectives, fundamental for coordination actions, establishing information flows and communication between these actors.[7]

The coordinating State, therefore, emphasizes the development of cooperative relations and is part of a democratic governance context, a concept that proposes the expansion of the actors involved in the decision-making process to include social and private agents affected by public policy. Thus, the creation of state cooperation involves private entities[8] and opens channels of social participation and control in public decision-making. The dimension addressed here, however, is the internal cohesion of public administration, as a first step towards building a coherent, systematic and predictable model to allow for the future possibility of including actors outside the administrative organization.

Taking articulated, coordinated administrative decisions helps increase the degree of confidence of social and private actors in elaborated government policies and actions. Conversely, an inconsistent, discontinuous and uncoordinated public administration creates an environment of mistrust and disinterest in decision-making, which affects the efficiency of public policy itself.

Similarly, the level of trust among public officials increases with successful coordinating practices, which contributes to more efficient corporate intelligence. From this perspective, the strengthening of an organizational culture of mutual trust is one of the mediating elements for improvements in institutional performance.[9]

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7 FLEURY, Sonia. Redes de políticas: novos desafios para a gestão pública. *Revista Administração em Diálogo*, n. 7, p. 77-89, 2005. p. 85-86. Available at: https://revistas.pucsp.br/index.php/rad/article/view/671/468. Accessed on: 5 July 2018.

8 For more on the issue of establishing partnerships between the State and private non-profit entities, it is interesting to consult Law No. 13.019/2014, which instituted the Marco Regulatório das Organizações da Sociedade Civil (MROSC).

9 ZANINI, Marco. Confiança organizacional como chave para a coordenação implícita e para a construção do capital intangível. *Cadernos Ebape*/FGV, v. 5, n. 3, p. 1-13, set. 2007. p. 7 e 10.

As stated by Dirks and Ferrin,[10] there is a direct relationship with trust in the: i) strengthening of internal communication between bodies and agents; ii) assimilation of organizational objectives, plans and goals; iii) improvement of negotiation processes and conflict reduction; and iv) increased individual and collective commitment. In this way, trust and coordination are reciprocated and contribute to the efficiency and effectiveness of public actions which directly impact the market and social dynamics.

Finally, it is necessary to emphasize that the notion of administrative articulation, according to the nomenclature proper to the Preliminary Paper of general rules for administrative organizations, encompasses the dimension of coordination and supervision. However, the focus of this research is only on coordination, which involves the integration, simplification and unification of State action; while supervision is related to the concept of control and monitoring of public policies and is, therefore, separate.[11]

3. Current administrative practice: lack of coordination and cooperation in the performance of the State

During the 1950s and 1960s, there was a process of diverse proliferation of government entities, which increased the institutional capacity of public administration. However, it happened in a disorderly way and without coordination, using a case-by-case and highly discretionary approach. In this context, the proposal that would become Decree-Law no. 200 in 1967, detected a need for greater rationality in the organization and performance of public bodies. This is therefore not a new problem and not only of public administration.

Still, the reform instituted with Decree-Law 200/1967 was carried out in an "authoritarian, centralized and insulated" way, implemented by few actors.[12] So it is not surprising that these norms did not have a greater

[10] DIRKS, K. T.; FERRIN, D. L. The role of trust in organization settings. *Organization Science*, v. 12, n. 4, p. 450-467, 2001. p. 453-454.

[11] The exercise of control also has a relationship, albeit indirect, with the practice of coordination actions, as it enables integration and articulation through mechanisms used to monitor and review administrative activities. Still, addressing theoretical issues of control would not add to the discussion proposed herein, as it is more useful to refer, when applicable, to the impact of this control on coordination.

[12] ABRUCIO, Fernando Luiz. Federalismo e Lei Orgânica da Administração pública: desafios e oportunidades de modernização dos governos subnacionais. In: Paulo Modesto, *Nova*

impact on the structure of the public decision-making process. Normative changes unaccompanied by changes in the reality and the culture of public administration would hardly result in effective coordination and in efficiency gains.

In this way, the institutionalization of a bureaucratic model, since the 1930s and at least at the federal level of the Brazilian public administration, resulted in growing segmentation and specialized arrangements of government agencies. As a result, a rigid administration was formed, closed in on itself, with little communication and coordination, low responsiveness and adaptability, and little room for innovation and creativity. This administrative organization, due to its lack of flexibility, could not adapt to the new demands or current solutions suited to the pace of social change and market innovations.[13]

From 1990 onwards, a reform process began in public administration, which resulted in some organizational changes, especially at the federal level. With the approval of Constitutional Amendment (EC) No. 19/1998, the constitutional text started to include provisions in line with the search for institutional performance and production of efficient results. There was, for example, the inclusion of the principle of efficiency in the introduction of art. 37 and in § 8, enabling expansion of the autonomy of administrative bodies and direct and indirect public bodies, with the setting of performance targets.

Nowadays, technological and scientific advances are rapid. Information technology has the potential to revolutionize and modernize public management, if used efficiently and innovatively. In this way, such mechanisms can help in decision making, in improving documentation and storage of administration information, in the creation of knowledge networks, fosterioong administrative coherence and coordination, with regard to publications and the transparency of administrative activity. Gradually, such tools are part of the operation of federal administration, but are still underutilized, considering the almost unlimited capacity, in terms of artificial intelligence, such as machine learning and the processing of natural language. Consequently, a significant disproportionality is created, for example, among public institutions responsible for supervising the private sector and regulated

organização administrativa brasileira, op. cit., p. 378.

13 BLANCO, Ismael; BRUGUÉ, Quim. Inclusividad democrática e inteligencia coletiva - ¿La gobernanza participativa como respuesta? In: LOZANO, Enrique Raya; ESPADAS, M.Ángeles; ABOUSSI, Mourad (Org.). *Inmigración y ciudadanía activa* — contribuciones sobre gobernanza participativa e inclusión social. Barcelona: Icària, 2013. p. 6.

companies, which may compromise their ability to effectively exercise their competencies.

Although it is recognized that there have been changes and advances in public administration at the federal level in recent decades, in the states and municipalities this is an even greater challenge, especially in small municipalities with a scarcity of public resources and personnel compared to their long list of responsibilities and competences. In these lesser localities, a patrimonial model is adopted, to a greater extent, aimed at the personal interest of a few, which confuses public and private assets.

Thus, in Brazil there coexists, in different degrees and in all federative spheres, administrative organizations with patrimonial, bureaucratic and managerial characteristics, at the federal level, but especially in small towns. To combat clientelism and

existing patrimonial privilege, it is necessary to seek effective implementation of managerial reform, at institutional, cultural and management levels, rather than bureaucratic and formal control.[14]

Furthermore, there is still a lack of dissemination and organization of data and information, mainly in local governments; many not even having an official, regularly updated website. In turn, coordinated action presupposes administrative transparency and the systematization of public data. Only in this way is it possible to coordinate administrative efforts and expand the dialogue between the State, market and society. These are requirements of the Lei de Acesso à Informação (LAI), which obliged the disclosure of public information on official websites (art. 8, § 2). There was, however, a waiver of this determination for municipalities with up to 10,000 inhabitants (§ 4), which makes access to information and the development of coordinated activities unfeasible precisely in places of greatest vulnerability.

Even when there is compliance with transparency and publication of acts, local governments have ineffective organizational memory, which makes it impossible to accumulate information and knowledge over time. In this sense, a series of techniques and strategies known as "knowledge management" aims to collect, mobilize and share knowledge and information for the

[14] BRESSER-PEREIRA, Luiz Carlos. A reforma gerencial do Estado de 1995. *Revista de Administração pública*, v. 34, n. 4, p. 7-26, 2000. p. 18. Available at: http://bibliotecadigital.fgv.br/ojs/index.php/rap/article/viewArticle/6289. Accessed on: 28 June 2018.

development of public policies and normative acts, to achieve excellence and improve institutional performance.[15]

The institutionalization of these methods involves execution of actions on a series of levels, among which processing of knowledge involves the creation and maintenance of an organizational knowledge bank in each agency, for recording and sharing data acquired over time.[16]

Through this survey and storage of information and relevant knowledge, it is possible to develop cooperative practices among different agencies and sectors. On the other hand, an entity that does not adopt transparency measures and does not have organizational memory depends solely on specific people (usually with many years of public service) for its administrative performance. Thus, it lacks continuity mechanisms and acts in a highly fragmented manner, without development of cooperative bonds, in addition to non-compliance with the principle of impersonality.

Another current problem is the recurrent lack of clarity and precision regarding rules of administrative organization in the definition of competences of each public agency. Thus, the juxtaposition of functions is common, with the exercise of expanding interpretations of this role within each entity. This overlap is aggravated when performance is not coordinated and unified, as it can generate contradictions or end up in court action, to resolve conflicts of jurisdiction and norms.[17] In these cases, fissures are created in the administrative performance, because, contrary to what may appear at first glance, the excess of apparently competent organs can be more harmful than the convergence of competencies in a central core.

In summary, the administrative system faces recurrent difficulties of mismatch and lack of administrative complementarity and cohesion in the elaboration and execution of public policies, especially in situations that involve complex public interests and overlapping competences, which hinders timely and adequate solutions to emergency problems, increasing the bureaucracy of the service provided.[18]

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15 BATISTA, Fábio Ferreira. *Modelo de gestão do conhecimento para a administração pública brasileira*: como implementar a gestão do conhecimento para produzir resultados em benefício do cidadão.

16 Ibid.

17 LEONARDO, Marcelo. A multiplicidade das leis e as dificuldades para os operadores do direito. In: MINAS GERAIS. Assembleia Legislativa. *A consolidação das leis e o aperfeiçoamento da democracia*. Belo Horizonte: ALMG, 2003. p. 106. Available at: https://dspace.almg.gov.br/bitstream/11037/4/4/04.pdf. Accessed on: 7 April 2018.

18 Pires, *Nova organização administrativa brasileira*, op. cit., p. 194.

4. The rules in force on administrative coordination: a regulation of Decree-Law 200/1967 and other relevant regulatory acts

The main legal instrument in force that regulates the organization of administrative law is Decree-Law 200/1967. However, the scope of its norms applies only to the federal public administration. This is, therefore, a first limitation to its potential for coordination and unification of national administrative activity, since it does not necessarily regulate the

states and municipalities.

In art. 6, the fundamental principles to be observed in the activities of federal public administration are foreseen, among which are coordination (item II) and planning (item I). So, the coordinating activity makes up the main framework of federal administrative organization and is directly related to planning, insofar as it implies planning actions and policies in a strategic, rational and integrated way.

Chapter II, entitled "on coordination", advances two important considerations on the subject. First, it states that administrative activities will be permanently coordinated, especially in the execution of government plans and programs, pursuant to art. 8, head paragraph. Paragraph 1 provides that, for the exercise of this coordination, there will be: i) structured meetings with the participation of subordinate heads; ii) the institution and functioning of coordination committees at each administrative level; iii) involvement of individual leaders. Finally, coordination will take place at all the levels of federal public administration.

The exercise of coordination at the top hierarchical level is provided for by § 2, through: meetings within the ministry; meetings between ministers of State (related areas); appointment of a coordination function to ministers of State (art. 36); functioning of the general secretariats - planning and budgeting sectoral bodies (art. 23, § 1); and the central coordination of auxiliary activity systems[19] (art. 31).

In sequence, § 3 of art. 8 establishes the need for coordination previews and the elaboration of proposals for integrated solutions, harmonized with the government's general and sectoral policy prior to the submission of

[19] Law No. 10.180/2001 organizes and disciplines the systems of auxiliary activities, through various federal public planning and budgeting devices.

a subject to the decision of the competent authority. This should be done through consultations and memoranda of understanding between the bodies involved.

Related to this, the provision of art. 23, II, of Decree No. 9.191/2017 regulates *Lei Complementar* (LC) No. 95/1998. In the list of competences of the Cabinet, it establishes that it is responsible for verifying this prior coordination between ministries before the submission of a regulatory act to the President of the Republic. Thus, the cabinet examines whether the relevant ministers of State involved in the proposed regulatory act endorsed or were heard regarding the act submitted to the President of the Republic. Similarly, art. 24, II, of the same decree, establishes the competence of the cabinet sector to carry out the necessary adjustments in the proposed regulatory acts, in coordination with the interested bodies.

Article 9 of Decree-Law 200/1967 addresses a concern with integrated programming and execution of federal services, in terms of agencies operating in the same geographic area. The sole paragraph, primarily, provide for the execution of agreements with the state and municipal agencies that carry out identical activities in the same area; if the agreement is not viable, there must be minimal coordination of efforts and investments. It is, therefore, an instrument that seeks to avoid overlapping competences between federated entities which result in the waste of public resources.

The regulatory Decree-Law 200/1967 instituted several articulation instruments from which derive duties of coordination and unification of administrative action. Thus, the lack of coordination in administrative practice could not, at first sight, be due to absence or poor quality of legislation, but rather its ineffectiveness. This also occurs due to a lack of understanding of the true scope of the administrative coordination rules, which require supplementary action of the bodies involved, reciprocal consultation and clarity of scope. When the search for coordination results in discontinuity of the regulatory supervision or stagnation in the construction of public policy, it can mean a misrepresentation of cooperative management policy.

In the same sense of coordination, articulation and administrative simplification, it is interesting to note the Programa Nacional de Gestão Pública e Desburocratização (Gespública), created by Decree No. 5.378/2005.[20]

[20] For more information about the Program, consult the Gespública portal, which, however, is soon to be taken down. BRASIL. *Programa Nacional de Gestão Pública e Desburocratização* — Gespública. Available at: www.gespublica.gov.b. Accessed on: 30 June 2018.

In art. 2, it was envisaged that this program would formulate and implement integrated measures for the transformation of public management, aimed at the promotion of results, the interests of citizens and a managerial efficiency. In item II, it established that one of its objectives was to promote governance, increasing the capacity for formulation, implementation. and evaluation of public policies. Item V put forward the idea of democratic, participatory, transparent and ethical management.

However, the GesPública was revoked by Decree-Law No. 9.904/2017 (art. 25, II). This regulatory act also provided for administrative simplification, but had, at the time, a much smaller scope. It basically addressed the establishment of a more simplified public service with, for example, the waiver of notarization and authentication of documents produced nationally. However, after amendments to Decree No. 9,723/2019, it started to regulate the so-called Public Service User Defense Code (Law No. 13.460/2017).

Article 1 of this regulatory decree, notably, provides for observation of guidelines on the relationship between bodies and entities of the federal executive government and users, including: sharing information (item II); integrated and systemic action in the dispatch of documents (item III); coordination with the states, DF and municipalities and with other powers, in order to promote integration, rationalization, stabilization and simplification of public services (item VIII).

Given the above, it is clear that the lack of coordination in current administrative practice is not due to lack of regulation or norms, but to cultural aspects. However, in any case, there is a limitation in terms of scope, i.e., it is restricted to a federal level. Even though subnational governments often copy such legislation, their implementation has been flawed and discontinuous. So, the approval of standards without changing procedures and administrative culture proves innocuous.

5. Normative proposals of the General Standards for Public Administration draft

Through Ordinance No. 426/2007, the Ministry of Planning, Budgeting and Management appointed a committee of jurists to present a general rules proposal for the organic structuring of public administration. Its objective

is to give "systematicity, predictability and conceptual clarity to different organizational forms of expression of public authority".[21]

For this purpose, national standards were identified which were applicable to direct and indirect public administration, and to parastatal and collaborative entities of the Union, states, DF and municipalities.[22] This wide coverage aimed at the standardization, organization and coordination of the entire state apparatus, including entities that work in partnership with the State in the performance of public interest activities.[23] Thus, its national scope contributes minimal unification the administrative organization and to the construction of a consolidated conceptual framework, which facilitates the concept of coordination between federated entities.

The predictions regarding administrative articulation dealt with the obvious problem of lack of coordination. In this sense, administrative performance is highly casuist, with a high risk of clashes between agencies and between agencies and the control bodies, which results in the blurring of limits, fragmentation of initiatives and loss of overall vision of the State administrative apparatus.[24]

As stated in the draft explanatory memorandum, articulation is considered one of the structuring vectors and foundations of public administration activity. Thus, it is necessary that government action is coordinated for effective public policy development.[25]

The provisions about administrative articulation are in chapter V, section II of the Draft. Before studying them, it is important to mention section I of this same chapter, which deals with planning. In art. 34 it is established that, through the planning of government action, coordination of public policies must be achieved. This means that, in the exercise of the planning activity, the manager must take into account the plans and processes developed in parallel

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21 MODESTO, Paulo. Anteprojeto de nova lei de organização administrativa: síntese e contexto. R*evista Brasileira de Direito Público* — RBDP, Belo Horizonte, a. 9, n. 34, p. 195-209, July/Sept. 2011. p. 196.

22 DI PIETRO, Maria Sylvia Zanella. Transformações da organização administrativa. Diretrizes, relevância e amplitude do anteprojeto. In: Paulo Modesto, *Nova organização administrativa brasileira*, op. cit., p. 23.

23 BRASIL Ministério do Planejamento, Orçamento e Gestão. Portaria no 426, de 6 de dezembro de 2007. *Anteprojeto de Lei Orgânica da Administração pública federal e entes de colabor*ação — *Resultado final*. Brasília: 2009. p. 3.

24 Paulo Modesto, *Anteprojeto de nova lei de organização administrativa*, op. cit., p. 197 e 199.

25 Brasil, *Anteprojeto de Lei Orgânica da Administração pública federal e entes de colaboração*, op. cit., p. 13.

in other federated entities, public bodies and sectors.[26] For this purpose, the sole paragraph of art. 35 provides for the holding of training courses, open to political and administrative entities. The aim is to produce coherent, coordinated and unified administrative planning. Finally, art. 36 confers on the central planning body the articulating competence of the other bodies.

According to the main dictates of section II, according to the wording of art. 38, articulation takes place through coordination and supervision, to achieve effectiveness,

efficiency and compatibility among agents, bodies and state entities. The scope of the wording allows for multiple formats of articulation. Article 39, in turn, expressly states that the objectives of these actions are uniformity, rationality and political cohesion in administrative action.

In sequence, subsection I specifically address the coordination aspect of this study. In the introductory paragraph of art 40, it is stipulated that coordination is intended to simplify, integrate and unify administrative action. The sole paragraph highlights the need to share information in a network, to rationalize the use of resources and unification of procedures. According to Maria Coeli, the Draft Project foresees transversal and horizontal procedures, facilitating dialogue between agencies, rather than the overlapping and duplication of decision levels.[27]

Art. 41 does not add much to the existing provision of art. 8 of Decree 200/1967. The main difference is that the Draft Project prescribes the performance of leaders with the participation of subordinate managers, with respect to the autonomy and competences of the bodies. Likewise, Decree 200/1967 foresees the coordination commissions, but art. 42 of the Draft Project expressly addresses the roles of these structures, namely, the means of rationalization and exchange of information. Note that these instruments do not exhaust the possibilities of articulation, which can be developed from the proposed guidelines.

The great innovation of the Draft Project is provided for in art. 43, which allows for the organization of In-Service conferences by the Chief Executive when different sectoral interests are evident. In-Service conferences are already

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[26] MARRARA, Thiago. A atividade de planejamento na administração pública: o papel e o conteúdo das normas previstas no Anteprojeto da nova lei de organização administrativa. *Revista Eletrônica de Direito do Estado*, n. 27, p. 1-31, July/Aug. 2011. p. 20. Available at: www.direitodoestado.com/revista/REDE-27-SETEMBRO-2011-THIAGO-MARRARA.pdf. Accessed on: 3 July 2018.

[27] Paulo Pires, *Nova organização administrativa brasileira*, op. cit., p. 193.

used in other countries as a mechanism for promotion of administrative transversality, in order to build a fast, integrated and adequate solution, with the participation of different competent agents. Thus, it is a legitimacy instrument with a high degree of rationality, both in defining the problem and in the choice of solution.[28]

This mechanism is in line with the general trend of the Draft Project to organize public administration in multiple decision-making centers, in opposition to the typically centralizing approach of the Brazilian state machine.[29] With this configuration, spaces of autonomy, transparency and shared management are created, as the discussion expands around the object, which feeds back into the decision-making process.

It is, therefore, a proper tool for addressing contradictions among administrative entities. In addition to providing coordination, its biggest advantage is to concentrate the different instances in a single context, facilitating joint, articulated, swift and simplified deliberation,[30] compatible with the pace of performance of the public administration.

In Minas Gerais, the service conference was regulated in art. 5, § 1 and § 2 of Delegated Law No. 180/2011, which provides for organic structuring of the public administration. Inspired by Italian public administration, the instrument seeks to provide shared public decision-making, in a quick and simplified way, at an interinstitutional or intersectoral level.

It was regulated by State Decree No. 45,757/2011 which establishes, in art. 4, the necessary circumstances, namely: the existence of disagreement between different bodies and the occurrence of relevant issues which go beyond the internal limits of the organ.

In the Draft Project, thus, §§ 2 and 3 provide for a summary procedure appropriate to the urgency, with maximum deadline for decision making and the possibility of retrieval of competence by the the Executive. Again, there is

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28 Ibid, p. 193-194.

29 SUNDFELD, Carlos Ari. Uma lei de normas gerais para a organização administrativa brasileira: o regime jurídico comum das entidades estatais de direito privado e as empresas estatais. *Cadernos Gestão Pública e Cidadania*, São Paulo, v. 16, n. 59, p. 299-307, July/Dec. 2011. p. 303.

30 PIRES, Maria Coeli Simões; COSTA, Mila Batista Leite Corrêa da; CORDEIRO, Caio Barros; CARDOSO, José Luiz Ferreira. Conferência de serviços: reflexões e perspectivas para a construção de um novo instrumento de governança democrática. In: CONGRESSO CONSAD DE GESTÃO PÚBLICA, 5., June 2012, Brasília. *Anais eletrônicos*. Brasília: 2012. p. 10. Available at: http://consad.org.br/v-congresso-consad-trabalhos-apresentados/. Accessed on: 28 June 2018.

a concern with the speed and simplification of administration. Although the dialogue and joint deliberation are positive and

coordinated by public bodies, administrative action must be presented in a timely fashion for the effective solution of urgent social problems.

Finally, art. 44 establishes the search for resolution of conflicts internally between state entities. This follows the trend toward consensus within public administration, which fosters governability and social confidence in the State. Still, its reach could have been broader, to include consensus and negotiation in the relationship of state and semi-public entities, toward the coordination of common interests. Public authorities must be open to dialogue, to consensus and collaboration, including in relation to society as a whole, offering up for public debate the decisions and measures it intends to adopt.[31]

Section III of the Draft, focused on monitoring, concerns provisions that propose the end of overlapping competences and control instruments (art. 50, V), the articulation and coordinated competence of the internal control bodies (art. 60) and the coordinating competence of the central internal control body (art. 60, sole paragraph). These considerations are in line with the idea of administrative coordination in the scope of organs of control and self-control of bodies, contributing to the construction of a coordinating, articulated and coherent structure in the most varied administrative instances.

In short, the Draft Project seeks to bring clarity and systematicity to the administrative organization. With regard to planning, coordination and articulation, it contributes to a re-modelling of the performance of public administration, starting from new parameters, more adequate to the current Brazilian reality. Although it is still subject to improvements in its legislative wording, it is a useful proposal of general rules, which can lead to advances in public administration, including fragile local governments, as it has a national scope.

However, the lack of political will and support for the project indicates that imminent approval is difficult. Even if it became law, the implementation of administrative coordination would still depend on the use of techniques that contributed to increasing its effectiveness, such as evaluation of impact. Therefore, the legislative change is not, by itself, enough to carry out institutional and cultural changes in Brazilian administrative structure. As shown in section 4, current legislation already posits coordination in its

[31] MEDAUAR, Odete. O direito administrativo em evolução. 2. ed. São Paulo: *Revista dos tribunais*, 2003. p. 210-211.

main framework, and it is up to the manager to implement instruments for its exercise.

6. Conclusion

Brazilian public administration has gone through a process of organizational differentiation which, to some extent, was necessary, in order to address diverse and multidimensional social problems. Whether the simplification and reduction of state machinery is possible, the search for coordinated action between these varied and complex structures is essential. This does not mean public institutions need to act collectively, but that they act in their spheres of competence with clarity as to their functions, in a complementary and harmonious way. Thus, the solidification of a managerial model of public administration, aimed at promoting efficient results involves the use of planning and coordination instruments.

In this sense, the administrative organization needs to adapt to the social and technological context, to incorporate information technology and artificial intelligence techniques to modernize their coordination and articulation practices, for the construction of network communication and organizational memory. Administrative reform must, therefore, be directed toward innovation in public management and the consolidation of democratic governance, so that there are gains in efficiency and effectiveness of public decisions, expanding the actors involved in the decision-making process.

Thus, both coordination and decision-making sharing are effective, with private sector and civil society access to public authorities and spaces in a non-discriminatory way, through the implementation of machine learning and processing of natural language in public management. Although technology too often generates discriminatory interfaces, it may be easier to audit automated public decision-making criteria than measure the asymmetries of the influence of private actors on public officials.

Another challenge is administrative coordination between federated entities. The weaknesses of local administrations need to be overcome through the strengthening of the federative network and local power, through balancing resources transferred and competences assigned to each entity. The Union, as holder of considerable power in Brazilian federalism, must lead this reformulation, with the development of cooperation policies and inter-federative planning. States must also exercise competencies articulated in

municipal policies; contributing to the autonomy of municipalities does not mean lack of coordination at the state level.

However, organizational transformations are not alone enough, unaccompanied by changes in administrative culture. It is necessary that public administration gradually adopt a more deliberative and dialogic methodology, which enables the emergence and consolidation of spaces for exchanges between entities, agencies and public officials and the formation of interdisciplinary and interdepartmental teams.[32] To do so, they must incorporate competitive intelligence processes that promote the collection, analysis and dissemination of information and knowledge. Otherwise, power vacuums and regulatory gaps — arising from overlapping of competencies which stagnate administrative performance — are occupied by officials who know how to navigate these administrative fissures. The remedy is, therefore, an administrative culture of coordination, with uninterrupted, dialogic and complementary performance of public institutions within the scope of their skills.

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[32] Ismael Blanco et al., *Inmigración y ciudadanía activa,* op. cit.

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