

Public Administration in the Balkans - from Weberian bureaucracy to New Public Management

Editors:

Lucica Matei
Spyridon Flogaitis

SOUTH-EASTERN EUROPEAN ADMINISTRATIVE STUDIES

Coordinator: Lucica MATEI

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Revizie text:
Carmen SĂVULESCU

Tehnoredactare computerizată:
Alexandra Irina TUDORICĂ

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Foreword

The current volume reproduces papers presented in the Workshop which was organized in Athens, in February 2010 by the European Public Law Organization (EPLO) and the Faculty of Public Administration – National School of Political Studies and Public Administration (NSPSPA), Bucharest.

The workshop entitled “Public Administration in the Balkans – from Weberian bureaucracy to New Public Management” has aimed to reveal relevant aspects on the developments of national public administrations in some Balkan states related to the traditional or actual models of the administrative organization.

The organizers have proposed to approach theoretical and practical aspects focusing on Weberian bureaucracy and New Public Management (NPM).

In this context, the general framework of debates was based both on specificity of public administration in the Balkan states and the European integration process, particularly the enlargement of the European Administrative Space to the Balkan area.

As shown by a profound analysis in the papers, the characteristics of the public administrations are moreover diverse and get closer to the developments of the public administrations in Europe, such as the Mediterranean ones (Greece, Cyprus etc.) or those of the states in transition (Bulgaria, Romania, Croatia, Serbia etc.).

The interactions with different intensities between Weberianism and New Public Management emphasise, generally, the characteristics of “a new Weberian state” (NWS) for the Balkan states (Pollitt and Bouckaert, 2004, Meneguzzo et al, 2010), revealing a higher NPM impact (Cyprus, Greece, Croatia etc.) or a lower one (Bulgaria, Romania, Serbia, Slovenia etc.).

NWS represents a metaphor describing a model that co-opts the passive elements of NPM, but on a Weberian foundation (Pollitt and Bouckaert, 2004, Brown, 1978).

The fact that the Balkan states belong more or less explicit to NWS triggers their position in post-NPM era, thus the state remaining an important actor, able to facilitate the public-private dialogue and to sustain the processes for enhancing the effectiveness of public services and administration.

The public administration reforms in the Balkan states have targeted one or several European models of national administrations. Even if the concepts on reform comprise visible differences, the tradition, geo-political specificity, human and material resources have determined similarities and common characteristics, which could be emphasized in the development and actual status of administration in the Balkan states.

At the same time, the administrative reforms have already introduced elements that enable the administrations in the Balkan states to get closer to the features of “public governance”. Herewith we refer mainly to participating in decision-making, introducing the elements of “neo-corporatism” governance etc.

The capacity of adaptation and openness represent a valuable feature of the Balkan administrations, most of them holding systemic connections of low intensity, thus being far away from what we call “strong administration”, found especially in the European developed states. Recent studies support the above ideas, referring to “main drivers of public administration modernization”, placing most Balkan states in the “very low” or “medium”

area (Demmke et al., 2006). When referring to open government or ethics, the same studies place the Balkan states under the heading “very high influence”.

Based on the above assertions, the papers emphasize concrete issues that could be synthesized in some large categories:

- Balkan public administrations between tradition and modernity;
- National experiences on the impact of the administrative reforms in Balkan states;
- Myth or reality in considering “a Balkan model of public administration”;
- Administrative convergence and dynamics as support of the evolution towards a certain model;
- Assessing relevant case studies on enforcing NPM in local governance.

It is also worth to mention that the approach of the participants in the workshop has been marked by the institutional innovations and trends in European governance, the debates concerning the model and characteristics of the European administration etc.

The workshop was organized within the framework of Jean Monnet project “South-Eastern European developments on the administrative convergence and enlargement of the European Administrative Space in Balkan states” with the financial support of the European Community.

Lucica Matei

Academic coordinator of Jean Monnet project

Dean, Faculty of Public Administration – National School of Political Studies and Public Administration, Bucharest, Romania

Spyridon Flogaitis

Director of European Public Law Organization, Athens, Greece

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Chapter 1

Balkan Public Administrations between Tradition and Modernity

TRANSFORMATIONAL GOVERNMENT AND BEYOND, FROM WEBERIAN BUREAUCRACY TO NEW PUBLIC MANAGEMENT

Sylvia ARCHMANN
European Institute of Public Administration
The Netherlands

Abstract

The adoption of new working cultures, commitment to best quality and customer satisfaction in public administration through the adoption of the principles of Transformational Government is an ongoing process in Europe. European public administration is thus moving from a model characterized by bureaucracy and inefficiency, towards a new model where quality, customer satisfaction, efficiency and reduction of administrative burden are the issues at stake.

This transformation relies strongly on the solid presence of ICT in public administration and government work; however, important societal changes are needed, such as the promotion of eInclusion and eSkills to ensure that citizens are not left behind in benefiting from the information society. The possibilities of transformational government are thus manifold: from efficiency gains to energy saving.

1. INTRODUCTION

For over a decade, public administration in Europe has been undergoing profound transformation. The incorporation of information and communication technologies (ICT) in all aspects of work in public administration has been a crucial element in triggering this transformation. Fortunately, public administration work today has little to do with inefficient bureaucratic machineries of the past; however, there is still room for improvement in order to make public services more efficient, cost-effective, burden-less and friendly for citizens and businesses.

The concept that better describes the transformations in the public administration process is the concept of “Transformational Government”. This concept originated in 2003 with the work of European organizations such as Belgium’s FEDICT¹, and borrows the name from the 2005 British initiative “Transformational Government enabled by technology”². The notion of transformational eGovernment implies that eGovernment can make a step forward from being a supporting tool for governments or public sector organizations or an information platform; thus becoming a driving force to redesign the way of working in public administration by making effective use of the ICT potential. Such transformative stances aim at making the way public administrations work more efficient and cost effective, citizen-centric and oriented towards customer (in this case citizen) satisfaction.

The changes at stake for public administration to comply with the precepts of transformational government, thus, are:

1. must become an organization that meets and keeps up with high quality standards;
2. must adopt a citizen-centric approach;
3. must work towards the minimization of burden for citizens and businesses;
4. must learn how to take advantage of the opportunities offered by the implantation of ICT, in order to promote internal reorganization, i.e. ‘learning organization’; and
5. must take a leading role in promoting innovation and become a driver for modernization, quality increases and best-value delivery.

Technology itself is the key enabler per excellence for the fulfilment of transformational eGovernment strategies. At the same time, it is important to acknowledge that constraints for actual transformation exist, and have to be dealt with. Those constraints are, put simply, avoiding any possible incapacity from leadership within the administration aiming at achieving new a generation of eGovernment. Leadership is the major factor for change in public administration, since it has to guide the organisation to adopt new ways of working, of retaining and organising its knowledge and to orient work more towards technology. Also, a lack of skills allowing administration workers to follow the same pace as technological developments would present a major hindrance for achieving such a goal.

¹ *Federale Overheidsdienst voor Informatie- en Communicatietechnologie* (Federal Administrations’ Service for Information and Communication Technologies), <http://www.fedict.belgium.be/>

² UK Government (2005). *Transformational Government Enabled by Technology*, C. Office, London, <http://www.cabinetoffice.gov.uk/media/141734/transgov-strategy.pdf>

Furthermore, one needs to bear in mind that in order to move public administration towards the transformational government concept, one of the most important points is to ensure that the majority of the citizenry is actively included in the benefits of information society. For this matter, infrastructural modernisation is not sufficient, since skills and awareness of the existing possibilities are equally necessary.

For these reasons, the majority of European governments and the European institutions have actively embarked on the promotion of eInclusion policies, including the promotion of skills.

2. eINCLUSION

Digital inclusion has prime importance in enabling transformational eGovernment. Bringing eGovernment one step further and benefiting from its transformational potential has one main constraint: the existing digital divide. The digital divide refers to the gap between those people with effective access to digital and information technology, and those that do not benefit from it. It includes the imbalances in physical access to technology, as well as the imbalances in resources and skills needed to effectively participate as a digital citizen.

In 2006, the Riga Ministerial Declaration set out the goals to be achieved by 2010, which inspires the eInclusion programme of the European Commission: objectives that were endorsed in the Malmö Declaration of 2009. The main objectives are, firstly, to reduce by half the gaps between the average EU population and older people, people with disabilities, women, lower-education groups, unemployed and “less-developed” regions in internet usage. Secondly, extend broadband coverage to 90% of the EU’s population. Thirdly, reduce by half the gaps between the EU average population and groups in risk of exclusion. And finally, increase compliance with accessibility guidelines by public websites. However, despite significant advances being made in extending infrastructure and affordable access, today the existing differences in internet access and usage among the different European countries remain one of the greatest challenges to overcome in the fields of ICT and, thus, to extending the potentials of transformational eGovernment throughout the EU.

The European Commission sees eInclusion as a key enabler of the goals of economic and social progress set in the Lisbon agenda and will continue to be in the post-2010 agenda. Departing from the idea of transforming the risk of digital divide into “digital cohesion” and opportunities for every citizen to benefit from technology, eInclusion focuses on bringing the advantage of the internet to all citizens, putting special emphasis on the risk groups. The main activities covered under eInclusion policies are divided into eAccessibility and eCompetences. The first, eAccessibility, deals with promoting assistive technology and universally accessible software, websites, etc. focusing on the “Design for all” principle. This includes websites or applications designed to be friendly to users with disabilities, for instance enabling colour contrasts, text-to-voice technology, etc. The latter – eCompetences – makes reference to skills, knowledge and attitudes relevant to education in the context of an inclusive information society.

Furthermore, national authorities have also been active in promoting digital inclusion, in many cases by launching national strategies aimed at bringing the internet to the widest possible range of the population. Those national programmes include strategies designed

according to the specific needs of each one of the countries, regions or areas, ranging from promoting cheaper access to the internet, promoting courses for disadvantaged groups, to setting up local internet centres or wireless access for remote areas.

3. USE OF ICT and SKILLS

The so-called “New Skills” are a comprehensive group of competences and knowledge areas of special relevance for organisational modernisation. The New Skills include innovation capacities, project management skills, leadership skills, contractual management, basic and advanced ICT skills (better known as eSkills), technology management and process management, information and knowledge management, communication and interpersonal skills, web editing and writing skills, flexible working methods, networking capabilities, and human resource management skills. Those are, thus, points that acquire different degrees of relevance depending on both the hierarchical rank of the employees and the level of proficiency required for the fulfilment of their tasks.

The command of ICT has become an indispensable skill for all employees of public administration. This area of competences, better known as skills, encompasses a whole range of capabilities related to the operation and application of ICT systems by individuals, from the basic skills, such as using a word processor or a spreadsheet, to more advanced and specialist skills. Especially in the last decade, ICT has become an integral part of both business and public sector work. Its use can change the traditional role of workers by taking over routine functions and leaving them free to undertake more specialised and interesting tasks. Moreover, as eGovernment is being implemented in European public administration, it transforms the way citizens interact with the administration and it modifies the working settings of public employees, requiring them to gain new competences. Therefore, ensuring that all employees have at least a solid command of the basic eSkills, is an excellent way to guarantee the success of a knowledge-centred modernisation strategy and actual preparedness of employees to cope with the renewed demands of their jobs. On the other hand, employees with more specific tasks may require advanced or specialist eSkills, such as software development, web design, database design, use of specialised programmes, etc. In such cases, the necessary eSkills should be identified and provided, as part of the organisation’s modernisation.

4. REDUCTION OF ADMINISTRATIVE BURDEN

Using ICT in eGovernment in order to reduce administrative burden has become a priority in today’s public administration in Europe. The potential for ICT in this matter is not yet fully developed, and it allows multiple ways to be deployed.

Thanks to being able to use the internet to conduct transactions with their governments, citizens and businesses can save valuable resources in terms of time and money, by not having to present themselves physically at the government’s premises or avoiding the burden of repeatedly providing the same information to the public authorities.

Reducing administrative burden has potential benefits for both citizens and businesses, as well as for governments:

For citizens and business:

- product improvement related to the quality of service, faster delivery and outcomes/results;
- service improvement in terms of increased transparency, better cooperation across and between internal units and external public sector partners;
- cost reduction, for instance in the form of time saving, and saving of material expenses;
- demand in relation to customer potential for take-up and access.

For public administrations:

- efficiency in performing in the form of process optimization, synergies between authorities, interoperability, synergies between new and existing systems;
- effectiveness in performing, for instance, in improving service results and administrative control;
- sustainability in the form of increased innovativeness, improved presence and performance and better cooperation.

ICT plays a crucial role in enabling this scope of transformation. Nevertheless, one has to keep in mind the need to adjust the increased use of ICT to the new needs, as new dilemmas appear: we need to improve quality, but reduce costs; make a more effective use of ICT, but have an eco-friendly approach; we need to serve citizens better, as some are not yet benefiting from the knowledge society.

5. CONCLUDING REMARKS

Throughout this article it has been seen how ICT has a role of utmost importance in transforming ICT from bureaucratic machineries of the past into efficient, effective, friendly and environmentally conscious organizations.

The most necessary changes in public service delivery to accomplish such goals are promoting eInclusion and eSkills in order to allow the maximum number of citizens to benefit from the information society, and for public administration and governments, to incorporate ICT in their working processes as a valuable tool for efficiently gaining and offering better services to the citizens and businesses.

However, the adaptation and transformation of public administration to the reality and needs of today is a process with evolving and transforming goals. It is undeniable that substantial improvements have been made in the course of this closing decade; new challenges are ever appearing. In the coming years, the necessity to consider ICT from an energy and resource saving point of view will increase, as ICT cannot only reduce administrative burden, but can help us saving energy and money in transport, reduce the amount of used paper, etc.

For public administration, these challenges will have to be met by combining the best strategy of incorporating ICT in its areas of work, and bringing its benefits to the citizens.

INSTITUTIONAL INNOVATIONS AND TRENDS IN EUROPEAN GOVERNANCE

Constantine A. STEPHANOU
Panteion University, Athens
Greece

Abstract

Effective implementation of regulations requires a degree of administrative discretion. But this discretion needs to comply with the rule of law and good governance requirements in the form of substantive and procedural principles. These principles are products of the cross-fertilization of legal orders. Drawing on the legal systems of the EU member States the Court of Justice incorporated them in the EU legal order as General Principles of EU law, limiting the administrative discretion of EU regulators. These principles have gradually been enshrined in EU formal instruments, such as the Treaties or the Charter of Fundamental Rights. While these provisions serve as limits to the administrative discretion of the EU regulators, their formal adoption by the EU is likely to influence the administrative law of EU member States, contributing to the emergence of a jus communis.

PART I

INSTITUTIONAL INNOVATIONS

1. THE INNOVATIVE CHARACTER OF THE EUROPEAN COMMUNITIES

1.1. Introductory remarks

The European Communities established in the 1950s' constituted major innovations in international institution-building. They were soon qualified as supranational organizations by virtue of their supranational decision-making and accountability mechanisms.

1.2. Supranational decision-making mechanisms

The European Commission, a body composed of independent figures appointed by national governments and approved by the European Parliament has increased powers in comparison to the secretariats of international organizations. It has the exclusive right to propose binding legislation to the Council, as well as to enact executive acts. Its independence towards Member States is sometimes contested. Some academics believe that the Commission acts as an agent of Member States.

On its part, the Council, although a traditional intergovernmental body composed of the ministers of Member States, may take binding decisions in many areas of EU competence by qualified majority voting (approximately 2/3 of weighted votes), a feature practically unknown in international organizations.

In all areas of internal competence supranational decision-making is accompanied by treaty-making power enabling the EU to conclude international treaties and to participate in international organizations. The EU has been a founding member of the World Trade Organization where it qualifies as a customs union with competence in trade policy. In this area, the EU votes as a block with 27 votes.

1.3. Supranational accountability mechanisms

a. Judicial accountability

Under international law States cannot be brought to justice without their consent. In the EU the European Commission is the guardian of the treaties and may institute proceedings before the Court of Justice against Member States in breach of their obligations. In case of non-compliance to the Court's decision, the Court may impose fines to the M.S. concerned. On the other hand, EU institutions are also accountable to the Court for their acts and omissions including violations of the Charter of Fundamental Rights.

b. Political accountability

The European Commission is accountable to the European Parliament, much like national governments are accountable to national parliaments. In March 1999, the Commission resigned in advance of its dismissal by Parliament, which had accused the Commission of mishandling the crisis of the “mad cow disease”. Since the Amsterdam Treaty the appointment of the Commission has to be approved by Parliament. Individual Commissioners are heard in advance and, sometimes, rejected by Parliament.

2. THE LEGITIMACY CHALLENGE

2.1. Compensating power transfers

The EU has gradually acquired significant powers from M.S. Gone are the days of the European Community which was involved in building and regulating the Common Market, later renamed Single European Market. Since the Maastricht Treaty (1992/3) new transfers of powers occurred, many of them in non-economic and highly politicized areas, such as the management of external borders, immigration and asylum - and other fields related to the so-called area of freedom, security and justice.

The aforementioned transfers of powers to the Union raised issues of political legitimacy which led to the adoption of two types of measures:

- Measures aimed at safeguarding diversity
- Measures aimed at enhancing democracy and accountability

2.2. Measures aimed at safeguarding diversity

Since the Maastricht Treaty, the exercise of Union competences is governed by the principles of subsidiarity and proportionality. These principles, as well the principle of respect of national identities enshrined in article 4 par. 2 of the EU Treaty following its amendment in Lisbon (2007/9) act as safeguards for M.S.

- a. Under the *principle of subsidiarity*, in areas which do not fall within its exclusive competence the Union shall act only if and insofar as the objectives of the intended action cannot sufficiently be achieved by the Member States, either at central level or at regional and local level, but can rather, by reason of the scale or effects of the proposed action, be better achieved at Union level. [Comment no. 1. The principle of subsidiarity applies to areas of shared competence. Once exercised, EU competence precludes action by Member States (principle of preemption). Comment no. 2. The principle of subsidiarity entails, in practice, the duty of the Commission to justify the added value of EU action in an area of shared competence.]
- b. Under the *principle of proportionality*, the content and form of Union action shall not exceed what is necessary to achieve the objectives of the Treaty.
- c. The Union shall *respect national identities* of the Member States, inherent in their fundamental structures, political and constitutional, inclusive of regional and local self-government. It shall respect the essential state functions, including those for ensuring the territorial integrity of the State, and for maintaining law and order and safeguarding internal security.

Comment: This provision may restrict the application of the federal principle of primacy of EU law.

2.3. Measures aimed at enhancing democracy

a. Representative democracy

Enhancing the legitimacy and prerogatives of the European Parliament has traditionally been perceived as a way to compensate power transfers to the EU. The Parliament's legitimacy was enhanced since its first direct election by the EC/EU citizens in 1979. This is not to say that the Council is not a source of democratic legitimacy; both Parliament and Council are sources of legitimacy.

This federal-type dual legitimacy is now reflected in article 10 of the amended EU Treaty which refers to the principle of representative democracy and provides for the dual representation of states and citizens through the Council and the European Parliament respectively. The two bodies decide by co-decision which is described as the normal decision-making procedure.

b. Participatory democracy

In addition to the aforementioned institutional arrangements, other democratic features have been introduced in the system. They are based on the procedural approach to governance and are aimed at enhancing the credibility of decisions in the context of the "regulatory state". The European Commission has declared its adherence to these principles in the White Book of 2001 on *European Governance*. The amended EU Treaty includes specific provisions on transparency and participation:

- i. Transparency is a pre-condition for accountability. It covers decision-making processes of EU institutions. Under the amended treaty, the Council meets in public when it performs legislative tasks (article 16 par. 8 of the amended EU Treaty). Transparency also covers the right of access to documents (article 42 of the Charter of fundamental rights), over and above the right to good administration which includes access to personal files (article 41 of Charter).
- ii. Various forms of participation are envisaged in the treaties. Political participation entails, since the Maastricht version of the EU Treaty, the right of EU citizens to participate at elections for the European Parliament and municipal elections in M.S. Moreover, although the amended EU Treaty does not refer explicitly to participatory democracy, consultation - in the pre-legislative process - with civil society and interested parties (stakeholders) is provided in article 11 par. 1-3. Moreover, par. 4 provides for the initiation of legislation (legislative initiatives) by at least one- million citizens "from a significant number of M.S."

PART II

TRENDS IN EUROPEAN GOVERNANCE

1. TRENDS IN REGULATORY GOVERNANCE

The extent of regulatory governance, i.e. governance by regulation, varies according to sectors. Eliminating national barriers was not enough to build the Common Market. Efforts to enact comprehensive regulation in areas such as consumer protection failed. The successor to the Common Market, the Single European Market, was founded on the principle of mutual recognition of national regulations, involving, where necessary, minimum harmonization. Minimum harmonization in the form of minimum standards was also practiced in the field of social policy.

Some areas, however, have been subjected to significant amounts of regulation, over and above the goal of harmonization / approximation of national laws. In this respect article 114 par. 3 of the Treaty on the Functioning of the EU provides that “The Commission, in its proposals ... concerning health, safety, environmental protection and consumer protection, will take as a base a high level of protection, taking account in particular of any new development based on scientific facts...”

Regulatory discretion is further contained by horizontal-type treaty provisions calling on the Union to ensure regulatory cohesion (art. 7 TFEU), promote gender equality (art. 8 TFEU), combat all forms of discrimination (art. 10) and integrate social, environmental, consumer and animal protection requirements in the definition and implementation of its policies (arts. 9, 11, 12, 13 TFEU). The observance of these requirements, as well as the subsidiarity and proportionality principles is secured by means of regulatory impact assessments.

Last but not least, regulatory discretion is contained by the Charter of Fundamental Rights, having the same legal value as the Treaties. Moreover, important procedural rights (right to be heard, right of access to personal files, duty of reasoning), as well as the right to compensation for wrongful conduct of EU institutions are embodied in article 41 of the Charter under the heading “right to good administration”. The formal acknowledgement of the aforementioned procedural rights will cover acts and omissions of Union institutions, as well as those of Member States when they implement EU law, in accordance with art. 51 of the Charter. Thus, the entry into force of the Charter entails a revolution in areas “preempted” under EU law, such as the law of asylum, where the requirements of good administration fail to be observed by a significant number of Member States.

2. ADJUSTMENTS TO REGULATORY GOVERNANCE

2.1. Recourse to participatory governance

a. Enhanced consultation

Since its White Book on *European Governance* the Commission has streamlined consultation procedures. Typical examples are regular consultations with NGOs organized in the so-called “platforms”. Moreover, legally binding procedures apply to

consultations with environmental NGOs at the pre-legislative and the implementation stages under the Aarhus Convention and the related directive.

b. Self-regulation

Self-regulation entails the full participation of stakeholders in the regulatory process, where they actually replace the State as regulator. A typical example has been the UK banking industry which is resolutely opposed to national or EU regulatory intervention. In the EU, self-regulation is a recognized practice in the area of social policy. Article 155 of the Treaty on the Functioning of the EU provides that “Should the social partners so desire, the dialogue between them at Union level may lead to contractual relations, including agreements.” In matters covered by the Treaty such agreements may be implemented by decisions adopted by the Council upon proposal of the Commission. More generally, self-regulation is explicitly referred to in the Interinstitutional Agreement on *Better Regulation*, which also provides as examples codes of conduct and sectoral agreements.

c. Co-regulation

Co-regulation has been common practice in the area of technical standards. Under the general directive on product safety the Commission may mandate European standardisation bodies to adopt technical standards in conformity with compulsory technical norms. More generally, the aforementioned agreement on *Better Regulation* also refers to co-regulation and provides as examples agreements of stakeholders for the implementation of EU legislation.

d. Co-implementation

Typical of this method is the so-called Lamfalussy regulatory process aimed at building the EU Single Financial Area. The process entails the participation of the relevant committees of national supervisory authorities in the regulatory process.

2.2. Recourse to governance by expertise

a. Committee governance

Hundreds of committees provide expert advice to the European Commission in the pre-legislative phase. Moreover, committees of national civil servants assist the Commission in its executive functions, in the framework of the so-called comitology. Under certain conditions they may veto the draft implementing acts.

b. Independent scientific agencies

Although the Commission is entrusted with the approval of drugs (medicines) and genetically modified organisms (GMOs), and may also recall hazardous products, it is assisted by independent scientific agencies which provide expert advice by means of opinions. The Commission is often accused of hiding behind opinions of experts who may maintain links with those business entities which seek the approval of their products.

3. GOVERNANCE BY PERSUASION

3.1. Governance by business incentives

a. Financial incentives in the context of CAP

Under the new CAP introduced in 2003, income support to farmers is decoupled from production. It is subject, nevertheless, to a number of conditionalities which relate, among other things, to food safety and respect of the environment. National administrations are entrusted with monitoring compliance with the aforementioned conditionalities.

b. Environmental Certification

Businesses are allowed to use the EU eco-label for environmentally friendly products and the EMAS certification when they implement management and auditing systems aimed at ensuring environmental sustainability. Environmental certification is also necessary for participating in public tenders.

3.2. The Open Method of Coordination

a. Definition

The OMC is a “soft” variant of compulsory coordination taking place in the field of economic policy. It is a flexible mechanism for promoting convergence towards common goals reflected in common indicators. The M.S. set benchmarks for reaching these goals and their progress is monitored by means of peer reviews and common reports of the Commission and the Council. The OMC offers opportunities for the exchange of best practices but its effectiveness has been questioned.

b. Scope of application

The question of effectiveness is in some way related to the scope of application of OMC. OMC has been conceived as a means to promote convergence in areas which remain in the realm of M.S. Nevertheless, it has also been practiced in areas where the Union has not used its competence because of the requirement of unanimity in the Council or where qualified majority has been impossible to reach. Critics have suggested that recourse to OMC may have impeded more effective regulatory initiatives; finally, some others have argued about the usefulness of combining OMC with directives, in areas such as social policy.

c. Evaluation

OMC has been perceived as a major instrument for implementing the goals of the Lisbon Strategy, i.e. transforming the EU into the most competitive knowledge economy. The goals of the Lisbon Strategy have been reached by a small number of countries and the exercise seems to have lost its dynamism, not least due to the current economic crisis.

In the next EU Summit (March 2010), the Spanish rotating presidency of the Council, in cooperation with the Commission and the new President of the European Council, will propose a new EU 2020 strategy, as a replacement of the Lisbon Strategy, focusing on ways to accelerate economic recovery and means to strengthen the OMC.

THE FEDERAL BUREAUCRACY: A CHALLENGE FOR THE EUROPEAN UNION ADMINISTRATIVE AND ORGANIZATIONAL FUTURE

Panagiotis GRIGORIOU
University of the Aegean
Greece

Abstract

The federal bureaucracy, a system very interesting for the administrative and organisational future of the EU, can have both, positive and negative, impact on the efficient working of government/governance at the EU level. A well-organized bureaucracy can increase the efficiency of the European government/governance. If every administrative component of this system has a specific responsibility, that does not overlap with other responsibilities, the efficiency of the system will increase greatly.

The European governance will constitute a principal objective of our research report. We will start with an account of the EU political system as an 'information processing' system. The 'informational complexity', which such a system has to cope with, is analysed and conceptualised along three different dimensions: density of communication, structurability of information and heterogeneity of beliefs and interests.

Next an eight-fold classification of EU modes of governance is developed based on the dimensions of centralization/dispersion (of authority), strict/loose coupling (of system units) and inclusive/exclusive access (to decision making). Next step for our report will be the new approach to EU governance by stressing the interdependence of governance and integration.

It suggests that EU governance is not just shaped by the emerging properties of the EU polity but has a strong impact both on system formation at national and European level.

It is a process of mutual structuration which is likely to affect the integration and coherence of member state systems up to a point where European 'good governance' may threaten the governability and democratic quality of established national systems.

1. INTRODUCTIVE REMARKS ON THE CONCEPT OF FEDERALISM

Federalism fulfils two major functions:

a) A vertical separation of power by a division of responsibilities between two levels of government. The component units as well as the federation are usually geographically defined, although `societal federalism considers non-territorial units as components of a federation.

b) The integration of heterogeneous societies, while preserving their cultural and/or political autonomy.

Both functions imply that the component units and the federation have autonomous decision powers which they can exercise independently from each other. Thus, sovereignty is shared or divided, rather than exclusively located at one level.

By no means do we suggest that the EU is, or should become, a federal state. But even without the legitimate monopoly of coercive force, the European Union has acquired some fundamental federal qualities. The EU possesses sovereignty rights in a wide variety of policy sectors reaching from exclusive jurisdiction in the area of Economic and Monetary Union to far-reaching regulatory competences in sectors such as transport, energy, environment, consumer protection, health and social security and, increasingly penetrating even the core of traditional state responsibilities such as internal security (Schengen, Europol) and, albeit to a lesser extent, foreign and security policy.

2. EUROPEAN UNION FEDERALIST APPROACH AND GOVERNANCE

The European Union is transforming itself into a political community within a defined territory and with its own citizens, who are granted (some) fundamental rights by the European Treaties and the jurisdiction of the European Court of Justice. The European Community was conceptualised as a primarily functionally defined organisation of economic integration without fixed territorial boundaries and no direct relationship between its institutions and the European citizens. With the Treaties adopted in Maastricht (1992) and Amsterdam (1997), however, the Single Market has been embedded in a political union with emerging external boundaries and a proper citizenship.

Not only has the EU developed into a political community with comprehensive regulatory competences and a proper mechanism of territorially defined exclusion and inclusion (European citizenship). It shares most features of what the literature defines as a *federation*. The main points that justify this European federative perspective are:

a) The EU is a system of governance which has at least two orders of government, each existing under its own right and exercises direct influence on the people.

b) The European Constitutive Treaties allocate jurisdiction and resources to these two main orders of government.

- c) There are provisions for 'divided government' in areas where the jurisdiction of the EU and the Member States overlap.
 - d) EU Law enjoys supremacy over national law, it is the law of the land.
 - e) European legislation is increasingly made by majority decision obliging individual Member States against their will.
 - f) At the same time, the composition and procedures of the European institutions are based not solely on principles of majoritarian representation, but guarantee the representation of „minority” views.
 - g) The European Court of Justice serves as an umpire to adjudicate conflicts between the European institutions and the Member States.
 - h) Finally, the EU has a directly elected parliament (since 1979).
- The EU is only missed of two significant features of a federation. *First point:* the Member States continue to have the exclusive competence to modify the constitutive treaties of the EU. *Second point:* in the EU there is no fiscal federalism. Otherwise, however, *the European Union today looks like a federal system, it works in a similar manner to a federal system, so why not call it an emerging federation?*

If we accept that the European Union has been developing into a federal system where formal and material sovereignty is divided and shared, federalism offers different alternatives to organise the distribution of power vertically, between the European Union and the Member States, and horizontally, between the executive and legislative powers. In principle, there are two federal models, which differ according to the distribution of competences between the two levels (shared versus divided), the representation of the states at the federal level (strong versus weak), and the fiscal system (joint versus separate).

Co-operative or intra-state federalism, of which Germany is almost a prototype, is based on a functional division of labour between the different levels of government. While the federation makes the laws, the states are responsible for implementing them. The vast majority of competences are concurrent or shared. This functional division of labour requires a strong representation of the states at the federal level, not only to grant an efficient implementation of federal policies, but also to prevent the states from being reduced to mere administrative units. The reduced capacity for the self-determination of the states is compensated by their strong participation in federal decision-making through the second chamber of the national legislature.

Inter-state federalism to which the US most closely corresponds, emphasises the institutional autonomy of the different levels of government, aiming at a clear vertical separation of powers (checks and balances). Each level should have an autonomous sphere of responsibilities. Competences are allocated according to policy sectors rather than policy functions. For each sector, one of the two levels of government has both legislative and executive powers. As a consequence, the entire machinery of government tends to be duplicated because each level should manage its own affairs autonomously.

Which of the two models appears most appropriate for a European federation? The European proposal (presented by the German ex- Foreign Minister Joschka Fischer in the spring of 2000) began another debate on the future of the European Union, political integration, democracy, and federalism. In addition to finding strong levels of elite support for the EU, variable political integration, and democratic reforms, these reflections also question some

common assumptions about integration, sovereignty, and the democratic deficit. It finds that there is evidence for an increasingly 'European' body of elites that support federal-type sharing of authority, based on policy issues. It also finds that while there is a 'core' of pro-EU states, this core does not apply to opinion on political integration and increased EU authority. Finally, it finds that while there is generally support for increasing decision making at the EU level, there is equal, and related, support for making democratic reforms a necessary condition of political integration.

Fifty years after the vision of a "European Federation" for the preservation of peace launched by Robert Schuman, the Fischer's proposal tried to create a completely new era in the history of Europe. European integration was the response to centuries of a precarious balance of powers on this continent which again and again resulted in terrible hegemonic wars culminating in the two World Wars between 1914 and 1945. The core of the concept of Europe after 1945 was and still is a rejection of the European balance of power principle and the hegemonic ambitions of individual states that had emerged following the Peace of Westphalia in 1648, a rejection which took the form of closer meshing of vital interests and the transfer of nation state sovereign rights to supranational European institutions.

Fifty years on, Europe, the process of European integration, is probably the biggest political challenge facing the states and peoples involved, because its success or failure, indeed even just the stagnation of this process of integration, will be of crucial importance to the future of each and every one of us, but especially to the future of the young generation., while most recently leaning toward the US model, remains, nevertheless, ambiguous as he has not made up his mind how best to preserve the strong role of the Member States in a European federation: either by granting them a strong representation at European level (German model) or by providing the Member States with a strong autonomous sphere of competences (US model). He cannot have it both ways. If Fischer wants strong representation of Member State interests at European level, he will have to opt for the German model-*i.e.*, the executives of the Member States must be represented (the *Bundesrat* model)-on the one hand, and sovereignty rights will have to be shared rather than divided, on the other. The Member States would have a veto on any major decision and would also be responsible for the implementation of European policies. The comprehensive legislative powers of the European federation, albeit shared with the Member States, would have to be matched by a *corresponding tax and spending capacity* at European level.

A „senate” type concept whereby the members of the second chamber of a future European parliament are drawn from the national parliaments provides only a weak representation of territorial interests at European level. As the US Senate provides ample evidence, the senators tend to represent functional and constituency interests rather than territorially defined concerns. It also follows that such a model has to be built on the division of sovereignty rather than on the concept of shared sovereignty, in order to avoid a far too centralised federal state. The EU would need to dispose of legislative and executive competences, which it could exercise *independently* of the Member State governments. Furthermore, independent legislative and executives responsibilities would have to be accompanied by a *minimum degree of taxation and spending autonomy* for the European government, if the European federation is not become a mere fig-leaf, veiling a return to the Europe of the nation-states.

Which model, therefore, is the most realistic for a European federation? First, given the current distribution of power, whereby the EU and the Member States *share* most of the

policy competences, the German model of co-operative federalism appears to be most feasible. With the exception of monetary union, the EU cannot legislate without the consent of the Member States, even in the area of its exclusive competences such as foreign trade. There are hardly any areas in which the Member States completely ceded sovereignty to European level and do not directly participate in decision-making.

Second, the European Council and the Council of the European Union could be easily transformed into a *Bundesrat*-type second chamber of the European Parliament, while the Commission would become the European government (with or without a directly elected European president). One can still think about whether the members of the first parliamentary chamber should also be members of the Member State parliaments. Finally, the German and European federal systems share a consensus-oriented political culture which helps to prevent political stalemate and allows the smaller members to have a fair chance of being heard, even if their voting power is curbed, which seems to be unavoidable given the prospect of EU enlargement.

But the European Union lacks one important feature of the German federation, which is unlikely to be replicable at European level. German co-operative federalism corresponds to a clear political preference for equal living conditions enshrined in the German Constitution and widely shared by German society. Instead of preserving and accommodating socio-economic and cultural plurality, the post-war German federal system was to provide similar living conditions for all German citizens, irrespective of the state they lived in.

3. US FEDERALIST MODEL EFFECTS

About the Federal Bureaucracy: What is it and how is it organized?

A first definition reflects the fact that the government organizations, usually staffed with officials selected on the basis of experience and expertise that implement public policy, of hierarchical organization into specialized staffs, free of political accountability. The ideal impact of this definition is that the members apply specific rules of action to each case in a rational, nondiscretionary, predictable, and impersonal way.

About the bureaucracy: What does it do?

From protecting the environment to collecting revenue to regulating the economy. In accordance with this reflection, we remark that vague lines of authority allow some areas of the bureaucracy to operate with a significant amount of autonomy.

Max Weber tried to define the growth of the Federal Bureaucracy. In 1789, there were 50 federal government employees. In 2000, this rate is 2.8 million (excluding military, subcontractors, and consultants who also work for federal government). The growth is mainly at state and local level since 1970. The Federal government began devolving powers and services to state and local government. The total federal, state, local employees are roughly 21 million people.

About the Organization of Bureaucracy and according to US experience: it tries to express a complex society that requires a variety of bureaucratic organizations. The federal bureaucracy is a notion composed by four components of Federal Bureaucracy: **Cabinet departments,**

Independent executive agencies, Independent regulatory agencies and Government organizations (e.g. *United States Postal Service, Federal Deposit Insurance Corporation/ to maintain stability and public confidence, Tennessee valley Authority/ to serve the Valley through Environment, Energy and Economic Development*)

1. **About the Cabinet Departments**, there are 15 departments which serve as the major service organizations of federal government (State, Treasury, Defense, Justice, Interior, Agriculture, Commerce, Labor, Health and Human Services, Housing and Urban Development, Transportation, Energy, Education, Veterans' Affairs, Homeland Security). The political appointments (Secretaries) at the top are directly accountable to the president.

2. The **Independent Executive Agencies** are not located within any cabinet department, but they report directly to the President. This gives it some independence from a department that may be hostile to the creation of the agency (e.g. Secretary of the Interior vs. Environmental Protection Agency; Environmental Protection Agency, Office of Homeland Security; before it was made a department last year)

3. **The Independent Regulatory Agencies** produce and implement rules and regulations in a particular sector of the economy to protect the public interest; it signifies that Congress unable to handle complexities and technicalities required carrying out specific laws. Finally, are they truly independent? They suppose to work for public interest, but industries can "capture" them. (e.g. Federal Reserve Board, Equal Employment Opportunity Commission, Nuclear Regulatory Commission)

4. Government Organizations

How the Bureaucracy is staffed?

a. *By Natural Aristocracy*

Thomas Jefferson (third President of the United States (1801-1809), principal author of the Declaration of Independence (1776) and the most influential Founding Fathers for his promotion of the ideals of republicanism in the United States) fired Federalist employees and placed his own men in government positions.

b. *By Spoils System*

Andrew Jackson, seventh President of the United States, used government positions to reward supporters. He implemented the theory of rotation in office, declaring it "a leading principle in the republican creed. He believed that rotation in office would prevent the development of a corrupt bureaucracy. To strengthen party loyalty, Jackson's supporters wanted to give the posts to party members. In practice, this meant replacing federal employees with friends or party loyalists. Bureaucracy became corrupt, bloated, and inefficient.

How the Civil Service Reform was realized?

a. **By Pendleton Act of 1883** that provided the employment on the basis of merit and open, competitive exams and created the Civil Service Commission in order to administer the personnel service.

b. **By Hatch Act of 1939** that provided that the Civil Service employees cannot take an active party in the political management of campaigns.

How the Political Control of Bureaucracy is organizing?

Who should control the bureaucracy?

Bureaucracy should be responsive to elected officials (Congress, the President)

That signifies:

The members of the bureaucracy are not elected, and must be held accountable for their actions;

Making them responsive to elected officials give the public a voice in bureaucratic operations.

The bureaucracy should be free from political pressures that signify that the members of the bureaucracy should be autonomous. For James Wilson, Bureaucracy is neutral and not political. Bureaucrats are experts in their specialties and must be left alone to do their job without political interference.

The Iron Triangles theory proposes the reinforcement of the policy-making relationship between the Interest Groups, the Congressional Subcommittees and the Bureaucratic (Executive) agencies. The Policy decisions are made jointly by these three groups that feed off each other to develop and maintain long-term, regularized relationships. Within the Federal Executive, the three sides often consist of: various congressional committees, which are responsible for funding government programs and operations and then providing oversight of them; the federal agencies, which are responsible for the regulation of those affected industries; and last, the industries themselves, as well as their trade associations and lobbying groups, which benefit, or seek benefit, from these operations and programmes.

The US model of dual federalism, in turn, would allow for a weaker European federation. It is grounded in a deep suspicion of a strong central state and, hence, resonates with the French and British distrust of what they perceive of as an emerging European federal state and with the corresponding claims for a strict application of the principle of subsidiarity. The restriction of European jurisdiction to a clearly defined area would also leave the Member States their autonomous taxation powers. A directly elected European president and a stronger European Parliament would significantly increase the legitimacy of the European federation. Finally, as state executive interests are less dominant at European level than in the German model, a vertically integrated party system, which is still missing in the EU, is of lesser importance. Yet, the introduction of the American model of federalism may be even more demanding than the German model.

First, divided sovereignty would require that most Europeanised legislation be dis-entangled in the areas for which the EU would have to hold exclusive competences as opposed to those in which the Member States are solely responsible. This is an almost impossible task given that the current EU is based on shared competences. It is also likely to meet with resistance from smaller Member States with low institutional and economic capacities. Second, the Member States would have to give up their strong representation at European level in order to grant the European federation independence in exercising its, by then, considerably curbed competences. The European Council and the Council of the European Union would be

replaced by a senate representing the citizens rather than the governments of the individual Member States.

The European Commission with a directly elected president would become a truly federal bureaucracy, which then, however, would have to be considerably strengthened (including field services in the Member States) in order to execute European policies effectively. Finally, given the strong, and with enlargement even increasing, socio-economic heterogeneity of the Member States, the European federation would need a minimum of redistributive capacity. The example of the American federation which started off with hardly any 'taxation and spending' capacity is rather instructive.

The distinction between EU administrative law and EU constitutional law, and between the EU constitutional framework and its administrative organisation is not defined. The competences and tasks of the EU are shared between different actors and institutions that act at different times as parts of the Executive and as parts of the Legislature, as administrators and decision-makers in all kinds of policy areas.

4. FEDERALIST BUREAUCRACY AND GOVERNANCE

Maybe, the federal bureaucracy constitutes a system very interesting for the European Union administrative and organizational future. It can have both, positive and negative, impact on the efficient working of government/ governance at the European Union level. There are some problems that contribute to a more problematic government/governance. However, a well-organized bureaucracy can increase the efficiency of this administrative and organizational aspect of the EU future. If every administrative component has a specific responsibility that does not overlap with other responsibilities, the result will be that the efficiency of the system will increase greatly.

The term "bureaucracy" applies to the slow, inefficient, and sometimes counter-productive process by which agencies handle the legal and operational details of their assigned services. Because the individual employees are tasked with limited and specific duties, they are often unable or unwilling to correct deficiencies which may result in hardship to affected citizens.

The EU constitutional system reveals a certain paradoxical character. As a system which has evolved from a functionally restricted common market order, established by treaty in the 1950s as the European Economic Community, into the vastly more complex and thicker political organization known as the European Union, its nature and scope remains constantly contested. The paradoxical character of the system is revealed in a fundamental tension between the powerful political attachment to a traditional and high form of constitutionalism which is focused on limited EU powers, clarity in the division of competences between states and the EU, and the shaping of an effective and visible EU government on the one hand; and the reality of a highly reflexive and pragmatic form of governance entailing the expansion of EU activity into virtually all policy fields, a profound degree of mixity in terms of the sharing of competence between levels and sites of decision-making, and the existence of a dense and complex system of governance alongside the formal structures of government.

The image of the European Union given by the EU Treaties as composed of three levels of government (supranational, national and local) and three types of public policies (common,

shared between national and European, and measures of accompany the national policies). The Government of the European Union is rather the product of ideological and institutional struggles that involve intense instrumentalization of the EU treaties and legislation, without being determined by them.

The cross-sectoral comparison of trajectories of public action in Europe shows the significance of a political logic that is neither dominated by supranational actors (Commission, European Parliament, European Court of Justice), or by elected or national administrations.

The EU Government can address three issues simultaneously: Firstly, the actors involved in European integration process, i.e. all the institutions and organizations involved in EU decision-making system, and the rules and constraints that shape their strategies.

Secondly, the interactions and interdependencies in the EU negotiation process. Thirdly, the legitimacy, as the central issue of EU integration, that europeanizes standards and public policy.

The European citizens expect the Union to take the lead in seizing the opportunities of globalisation for economic and human development, and in responding to environmental challenges, unemployment, concerns over food safety, crime and regional conflicts. They expect the Union to act as visibly as national governments. Democratic institutions and the representatives of the citizens, at both national and European levels, can and must try to connect Europe with its citizens. This is the starting condition for more effective and relevant policies.

For the federal bureaucracy, the mechanism of the government/governance operates as a system of interconnected departments and agencies to deal with the administration of government programs. European governance concerns the analysis of European public policy, aiming ultimately to europeanize the modes of public action.

The Treaty of Lisbon confirms three principles of democratic governance in Europe:

Democratic equality: the European institutions must give equal attention to all Citizens;

Representative democracy: a greater role for the European Parliament and greater involvement for national parliaments;

Participatory democracy: new forms of interaction between citizens and the European institutions, like the citizens' initiative.

The Lisbon Treaty is considered as a qualified choice for the future of the EU governance and represents an important step in EU decision – making itinerary. The most significant modifications, introduced by this Treaty, have monopolised the capacity of the European Institutions and the EU decision- making system to be adapted to EU enlargement institutional particularities and functional specificities. The extension of majority system and the extension of co-decision, as the ordinary legislative procedure, constitute two decisive innovations. These changes increase in efficiency and strength the formal democratic aspects of the process.

The first attempt to evaluate the impact of the Lisbon Treaty on EU decision-making system may be interpreted through two perspectives. *Firstly*, the resulting system of binding community multiple legal instruments is simpler and more efficient in term of producing decisions. *Secondly*, the foundations of the European Union are strengthened by the principal challenges for decision-making in terms of good European governance. This result seems to increase the procedural transparency and, essentially, its qualification, in offering to the system its qualification.

Before Lisbon, the Constitutional Treaty focuses its interest on the contrast between what is referred to as ‘traditional EU constitutionalism’ and ‘new governance’. The EU Charter of Fundamental Rights and the stimulation of a fairly wide- ranging debate on reform of European governance, and the formal recognition of a role for ‘civil society’ within the EU system of governance all reflect increasing political recognition of the need for constitutional reform.

This institutional period of EU evolution, linked to the constitutionalization of EU Treaties, has been enormously influenced by five community principles defining the good governance in EU: *openness, participation, accountability, effectiveness and coherence*. Each principle was important for establishing more democratic governance.

Openness. The Institutions should work in a more open manner. Together with the Member States, they should actively communicate about what the EU does and the decisions it takes. They should use language that is accessible and understandable for the general public.

Participation. The quality, relevance and effectiveness of EU policies depend on ensuring wide participation throughout the policy chain – from conception to implementation. Improved participation is likely created more confidence in the end result and in the Institutions which deliver policies.

Accountability. Roles in the legislative and executive processes need to be clearer. Each of the EU Institutions must explain and take responsibility for what it does in Europe. But there is also a need for greater clarity and responsibility from Member States and all those involved in developing and implementing EU policy at whatever level.

Effectiveness. Policies must be effective and timely, delivering what is needed on the basis of clear objectives, an evaluation of future impact and, where available, of past experience. Effectiveness also depends on implementing EU policies in a proportionate manner and on taking decisions at the most appropriate level.

Coherence. Policies and action must be coherent and easily understood. The need for coherence in the Union is increasing: the range of tasks has grown; enlargement will increase diversity; challenges such as climate and demographic change cross the boundaries of the sectoral policies on which the Union has been built; regional and local authorities are increasingly involved in EU policies. Coherence requires political leadership and a strong responsibility on the part of the Institutions to ensure a consistent approach within a complex system.

This Treaty has clearly set out **the Union's objectives**, which include: working for sustainable development based on balanced economic growth; a competitive social market economy; aiming at full employment and social progress; protecting and improving the quality of the environment; promoting economic, social and territorial cohesion.

The Constitutional Treaty represented a step forward for local and regional authorities in the European Union. It reflects our efforts to **increase the involvement of cities and regions in the life of the European Union** as a means to bring the Union closer to its citizens. The intention of the Constitutional Treaty was to help the European Union meet the challenges of achieving a democratic, transparent, efficient enlarged Union for all its citizens. Only **the support and participation of the citizens** would make this Europe a reality. The local and regional authorities could work as valuable intermediaries between the EU Institutions and the citizens.

The Constitutional Treaty gave greater recognition to the role of local and regional authorities in the European Union, by recognising the **principle of local and regional self-government** and reinforcing the **principle of subsidiarity** to include the local and regional levels. This means that before launching an initiative, it is essential to check systematically (a) if public action is really necessary, (b) if the European level is the most appropriate one, and (c) if the measures chosen are proportionate to those objectives.

At last, it is necessary to know if European integration is still dominated by national actors (inter-governmentalism) or whether, instead, this process follows a logic where the actors receive as much or more power (neo-functionalism and neo-institutionalism).

5. FUNCTIONAL PRIORITIES AND OBJECTIVES OF THE EUROPEAN SOCIETY

European society would function poorly without legislation and a functioning court system. By setting rights and obligations, laws protect citizens, customers, workers and businesses against abuses and dumping rules. In the particular case of enterprises, they are a precondition for fair competition and hence for competitiveness.

This is the *raison d'être* of a large part of EU legislation, introduced to correct market failures and ensure a level playing field at continental level.

That protection can often only be secured through obligations to provide information and report on the application of legislative norms. Administrative obligations should therefore not be presented as mere 'red tape', a term normally reserved for needlessly time consuming, excessively complicated or useless procedures.

Nor should EU administrative obligations be presented as a mere cost factor, as it often replaces 27 different national legislations and thus decreases operating costs at EU level. On many issues, European business associations themselves have continued to ask for targeted harmonisation of rules as the best way forward in term of simplification.

Moreover information requirements such as conformity testing and certification also provide crucial indication on the boundaries of business liability and remediation, which is not negligible viewed against the background of what is sometimes described as a growing "compensation culture".

The EU constitutive legal instruments provide that the European Commission should “take duly into account the need for any burden, whether financial or administrative, falling upon the Community system, national governments, local authorities, economic operators and citizens to be minimised and proportionate to the objective to be achieved”.

In order to comply with the proportionality principle, the Commission already appraises the impact of proposed measures in term of administrative burden and evaluates it when simplifying existing legislation, but does not have a single quantitative approach for doing so.

Analysis needs to follow basic rules, but will naturally differ from case to case not least because the methodologies for obtaining data need to differ from case to case. Some efforts to minimise administrative burden have not involved quantification. In those cases, complaints and suggestions from targeted groups are gathered through public consultation; a high level group of experts then reviews the regulatory framework and makes recommendations for simplification.

The EU common methodology must be applied in a proportionate manner. It should only be applied when the scale of the administrative obligations imposed by an EU act justifies it and the effort of assessment should remain proportionate to the scale of the administrative costs imposed by the legislation.

Besides, adequate flexibility must be allowed when filling in the common reporting sheet. As for the number and the distribution of contributing Member States, evidence gathered through pilot projects suggests that they do not as yet provide a sufficient basis for assessing costs at EU level. Ideally, a majority of Member States should be willing and able to provide data. Whilst Member States should be encouraged to contribute, the Commission will of course retain responsibility for judging the costs of its proposals on the basis of its assessment of available evidence.

A minimalist approach would only require that contributing Member States to provide data in a standardised manner on the labour costs, time and number of operators affected by an EU measure and its transposition into national legislation. Member States would not necessarily have to apply the EU common methodology to assess their purely national legislation.

The coexistence of very different methodologies at national and EU level would, however, increase significantly the overall assessment costs for Member States in terms of duplication and other efficiency losses. Convergence between national and EU methodologies would moreover ensure easy interoperability among databases and would offer greater economies of scale in term of data collection.

THE ADDED-VALUE OF AN EU COMMON METHODOLOGY

On the basis of the findings of the pilot phase and the study of quantification efforts at Member State level, and although considerable optimisation work remains to be done, notably at Member States' level, the Commission concludes that:

(1) specific cost-based quantification helps in assessing measures from the point of view of those affected and taking into account the distributional effects of a measure;

- (2) specific cost-based quantification contributes to regulatory transparency (quantifying costs helps to make trade-offs more transparent, provided that the benefits including longer term benefits are also investigated);
- (3) specific cost-based quantification often provides a relevant indicator in particular for prioritising simplification work and monitoring progress in reducing administrative burdens, provided that figures are put in proper perspective and methodological limitations properly highlighted;
- (4) quantification facilitates communication (communicating on simplification efforts is more effective when quantified results are provided; this is particularly true for the Union because, many EU measures being technical, their titles often mean very little for the wide public);
- (5) an EU common methodology would facilitate the comparison of performance and the identification of best practices;
- (6) EU common methodology would ensure that national data can be easily added up in view of assessing individual acts and/or cumulative burden at sectoral level.

There would therefore be net added value provided that an EU common methodology would not be at the expense of analysis of other impacts.

A common methodology does not mean having no flexibility at EU or national level. A methodology is made of several building blocks. In order to have an EU common methodology, some must be used by all, others can be optional. EU institutions and Member States should remain free to introduce specific features in their methodology for assessing administrative burden imposed by legislation as long as the resulting figures:

can be easily compared and

can be easily and reliably added up in view of assessment of cumulative burdens.

However, as already mentioned, the Commission considers that there can be no EU common methodology without the three following building blocks: a common definition, a common core equation and a common reporting sheet.

Assessing net administrative cost as proposed by the Commission seems preferable for a number of reasons. It would clearly show the extent of simplification efforts and dispel the impression that an EU engagement automatically means 'new' costs.

Moreover, it would be consistent with the Commission's impact assessment guidelines and national Regulatory Impact Assessment manuals, as well as being in line with the first OECD guiding principle for regulatory quality and performance.

A net cost approach would have a clear advantage for those Member States which assess administrative burden systematically for two reasons. *First*, with net figures, there is no need to go through costly periodical assessment of the entire legislation into force. *Secondly*, consolidated figures can be produced at any time which means that progress can be monitored on an ongoing basis (no need to wait for the general stocktaking exercise to know how total administrative burden evolved since the initial baseline measurement).

It is a common view that enlargement poses a severe challenge for EU structural and cohesion policies. Far less clear and uncontroversial, however, is the empirical and analytical basis for that statement. Three broad questions need to be addressed:

- (1) What is the current state of economic and social cohesion in the applicant countries and how will, as a consequence, the situation in a future EU 27 differs from that in the current EU 15?
- (2) How will enlargement itself affect cohesion via the expected intensification of economic integration?
- (3) How long will EU structural policy have to deal with the challenges of enlargement?

The last enlargement was driven by moral force, by political and strategic considerations. It was the EU's response, long overdue, to the tragic events of the 20th century. It was a bid for peace through integration, for stability through understanding and co-operation. These dividends are so clear and invaluable that it is not an exaggeration to call this enlargement truly "historic".

What is the added value of the UE enlargement? The added value is the expression of solidarity and the consolidation of peace and stability in Europe. Solidarity vis-à-vis countries with shared historic and cultural roots made it imperative for the EU member states to come to the assistance of their neighbours. Peace and stability would not only heal the wounds that years of isolation and mistrust had inflicted on European societies. Peace and stability would also fuel economic development and would maximise prosperity for all.

The offer of EU membership to Central and Eastern European countries was instrumental in achieving these goals. In order to be part of the EU family, root and branch reform of antiquated economic and political structures was a prerequisite. Once these structures had been replaced, the foundations for peace, stability and prosperity for the whole of Europe were set.

Beside the important issues of federalism and subsidiarity, institutions of direct democracy like popular initiatives and (obligatory) referenda could also be a crucial factor in a future European constitutional charter. They should be seen as a necessary supplement for the institutions of the representative democracy such as the proposed two chamber system and the European government.

6. CONCLUSIONS

Governance is not a simple role in the award of civil society in regional and central government structures. This is an innovative concept for the functioning of institutions and markets. This is a new proposal for the interpretation and application of the democracy in Europe, which for three centuries is characterized as the principal laboratory for the processing of the principles of the direct democracy.

The institutions of direct democracies also have other important means, such as their possible use by the voters to break politicians' cartels directed against them. The representatives have a common interest in forming a cartel to protect and possibly extend political rents. Referenda and initiatives can be means to break the politicians' coalition against voters. Initiatives

require a certain number of signatures and if the initiators obtain these signatures they can force the government to undertake a referendum on a given (mostly disputed) issue.

They are a particularly important institution, because they take the agenda setting monopoly away from the politicians and enable outsiders to propose issues for democratic decision, including those that many elected officials might have preferred to exclude from the agenda.

As has been demonstrated in public choice theory the group determining which propositions are voted on, and in what order, has a considerable advantage, because it decides to a large extent the issues that will be discussed when and which ones will be left out. Referenda, whether obligatory or optional, enable the voters to state their preferences to the politicians more effectively than in a representative democracy. In a representative system, deviating preferences with respect to specific issues can only be expressed by informal protests, which are difficult to organize and to make politically relevant.

If one summarizes these findings, one can draw two conclusions: Cumulating research on the properties of a popular referendum has revealed two major aspects on which institutional economics has to focus. *One is the importance of discussion in the pre-referendum state.*

This implies that the number of propositions and the frequency of ballots must be low enough that the voters have an incentive and the opportunity to collect and digest the respective information in order to participate actively in the decision.

The second element is that direct democratic institutions enable voters to break politicians' and parties' coalitions directed against them. Direct participation serves to keep the ultimate agenda-setting power with the voters. Initiatives and referenda are effective means by which the voters might regain some control over the politicians.

The introduction of direct democratic institutions like the referendum at the highest European federal level in European constitution is an absolute necessity, especially if the European federal government wants to change the tax structure or wants to take over new a policy field.

This can only be implemented if it is approved by the legislation of the two chambers and by a popular referendum and if it is approved by a majority of the states. The introduction of direct democratic elements was crucial for the adoption of the European constitutional Treaty so that the European government has kept strictly to its given tasks. Especially, the introduction of direct democratic elements could be an excellent tool in order to create an European identity. If European citizens have the capacity to decide about European Union matters, they will be better informed about European affairs, they will discuss it, they will learn about it and after sometime they will decide in an European way, and not only in a way, is it good for Romania Greece, for Germany or for Malta.

In order to guarantee a further successful functioning of the enlarged European Union a Federal European Constitution is proposed. Six basic elements of European federal constitution are developed:

European Commission should be turned into European government and the European legislation should consist of a two chamber system with full responsibility over all federal items.

Three further key elements are the subsidiarity principle, federalism and the secession right, which are best suited to limiting the domain of the central European authority to which certain tasks are given, such as defence, foreign and environmental policy.

Finally, direct democracy is another important feature, which provides the possibility for European citizens to participate actively in the political decision making, to break political and interest group cartels, and to prevent an unwanted shifting of responsibilities from EU member states to the European federal level.

The non-adoption of the Constitutional Treaty can be regarded as the failure of the perspective for the real federal coordinates for Europe. This weak institutional side of the European integration was not covered eventually by the Treaty of Lisbon. The future major treaty reforms should continue to be the principal requirement for the EU institutional system. The EU institutional system tries to increase its legitimacy and its good direct relationship with the European civil society. It seeks to express the dynamic relations of political forces across the global society from an observation of practice. This objective, inspired by Max Weber, analyzes in depth the relationship between government and society in national and local political spaces.

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CROATIAN PUBLIC SECTOR - THE “LABYRINTH” OF PUBLIC SECTOR ACTIVITY

Marija Kastelan MRAK

Faculty of Economics, University of Rijeka
Croatia

Davor VAŠIČEK

Faculty of Economics, University of Rijeka
Croatia

Abstract

The field of activity of public administration, and thus of the administration of convergence is very broad and complex. In order to perceive the complexity of the functioning of the Croatian public administration the institutional framework of Croatian public sector and the basic components of the state administration and local self-government are presented. The Croatian public sector and its integrated sub-sectors are defined according to the methodology of the Government Finance Statistics (hereinafter GFS), International Monetary Fund (hereinafter IMF), United Nations System of National Accounts (SNA) and European System of National Accounts (ESA 1995).

This paper analyses the Croatian public sector and comments on the progress achieved in public administration reforms from a functional and institutional perspective. We conclude the presentation by establishing that the present state of organization of the Croatian public sector has historically been shaped by international and Croatian legislative definitions, which are not uniform. This results in a highly non-transparent and presumably inefficient administration of public funds. Therefore, in order to assess the effects achieved by public sector reforms so far and in order to plan future reforms, the institutional scope and structure of the Croatian public sector needs to be analyzed in more detail.

1. INTRODUCTION

During the past two decades, reforms in the Croatian public sector have been a constant issue on the agenda of politician, public servants and the broader public. However, often the reforms were seen as mild, inconsistent and even unsuccessful, despite of the high level of attention dedicated, and money and time consumed. According to Koprić (2009), even though reforms aimed at increasing administrative capacity, they failed because of a too narrow understanding of the political, organizational, functional, personal issues involved. In his view, the preparations for defining the strategic framework of Public Administration Reform Strategy from March 2008 lacked proper coordination and were narrowed up to blocking those propositions that were deemed contradictory to organizational interests of individual bodies of state administration.

A similar discomfort with public sector reforms can be observed in other transition countries. Some question the quality of the technical assistance delivered by foreign advisors and call for serious research. To the view of Sobis and de Vries (2009), the mission of foreign advisers was to advise in the process of designing and running public sector reforms and act as catalysts in the public sector transformation process. Terms employed in the discussion (actually subtitles to the paper) include phrases such as “poisoned debate”, “aid commerce” and “inefficiency of foreign aid”. For them, the reasons underlying inefficient use of resources can be attributed to two sets of factors: managerial and substantial.

As economists, teaching in the field of business administration, we feel compelled to question how can we value both positive and negative reform outcomes and second, what are the potential reasons for a possible mismanagement public sector reform processes. Therefore, at this stage, the scope of our research was to clarify the content of, and possible set boundaries to, the system and the process being managed. To our point of view, the present resentment might be interpreted as a result of high expectations and over-generalization of the principles that should be achieved by reforms.

In short, Croatia has a two-tier system of government administration: central and local government administrations. Institutionally, the public sector consists of different entities that carry out the fundamental functions of the State, including central and local government, their agencies and bodies and other legal entities established and financed predominantly by the State. In wider terms, the public sector includes not just specific institutional executors but also activities or services of common interest, proprietary relations between the government and local authorities, public finance, public goods and state legislative. Consequently, the system is highly complex, as can be seen from the paper, which definitely makes it complex to manage. Second, functions performed by different entities differ and there is the problem of observing immediate long-term consequences of public sector reforms.

2. INSTITUTIONAL SCOPE OF THE CROATIAN PUBLIC SECTOR

The Croatian public sector and its integrated sub-sectors are defined according to the mostly harmonized methodology of the Government Finance Statistics (hereinafter GFS),

International Monetary Fund (hereinafter IMF), United Nations System of National Accounts (SNA)³ and European System of National Accounts (ESA 1995).

International and Croatian legislation does not define public sector uniformly. The most important laws that define the system and structure of state administration are the Law on the System of Government Administration⁴, the Law on the Croatian Government⁵, the Law on the Organization of Ministries and State Administration Bodies⁶, the Regulation on Principles for the Internal Organization of State Administration Bodies⁷ and the Budget Law⁸ and numerous other regulations that govern the internal organization of individual bodies of state administrative organizations and other special laws.

With special laws and regulations previously mentioned legislation define the framework of functioning of state administration. These regulations determine the affairs of the state administration which are carried out by the bodies of state administration. Activities in the affairs of state administration are the following:

- Immediate implementation of the law,
- Issuance of regulations for their implementation (implementing regulations),
- Perform administrative oversight and
- Other administrative and professional jobs.

The affairs of state administration determined by the special laws may be entrusted to bodies of local or regional (regional) government or other legal entities that pursuant to the law have a public authority.

From this very short overview, it is evident, that the scope of the public sector might be understood differently, depending on legal source, and the precise function of the public body defining the system. Therefore, the institutional scope and structure of the Croatian public sector needs to be described in more detail according to the international and Croatian legal sources. Furthermore, reforms efforts and outcomes have a higher probability of being judged correctly if the analysis is pointed out precisely to a separate (well defined) segment of the public sector.⁹ So, the following sections are structured according to most common, classifications of public sector entities according to specific sources.

³ Government Finance Statistics (GFS) is a statistical system developed by International Monetary Fund. Its goal is to create a quality information support to economical analyses of general government, i.e. the public sector as a whole.

According to the principles set by the above mentioned United Nations System of National Accounts (SNA 1993, Chapter IV - Institutional units and sectors), the entire economy consists of all residential institutional units divided into five sectors:

1. Non-financial corporative and quasi-corporate companies
2. Financial institutions
3. General government
4. Private non-profit institutions
5. Population (households).

The entire international sector is added to these five sectors.

⁴ Official gazette, 190/03., 199/03., 79/07.

⁵ Official gazette, 101/98, 15/00. i 117/01., 199/03., 30/04., 77/09.

⁶ Official gazette, 48/99., 15/00. i 20/00, 199/03., 30/04., 136/04., 22/05., 44/06., 22/05., 5/08., 27/08., 77/09.

⁷ Official gazette, 43/01., 08/04., 131/06., 91/07.

⁸ Official gazette, 87/08.

⁹ We are aware that narrowing the object of research to a specific entity/subsystem hides its own drawbacks, most important being the risk of neglecting reforms in complementary subsystems.

According to Government Finance Statistics, the Croatian public sector is made out of two subsectors:¹⁰

- The General Government
- Public non-financial and financial corporations and quasi-corporations.

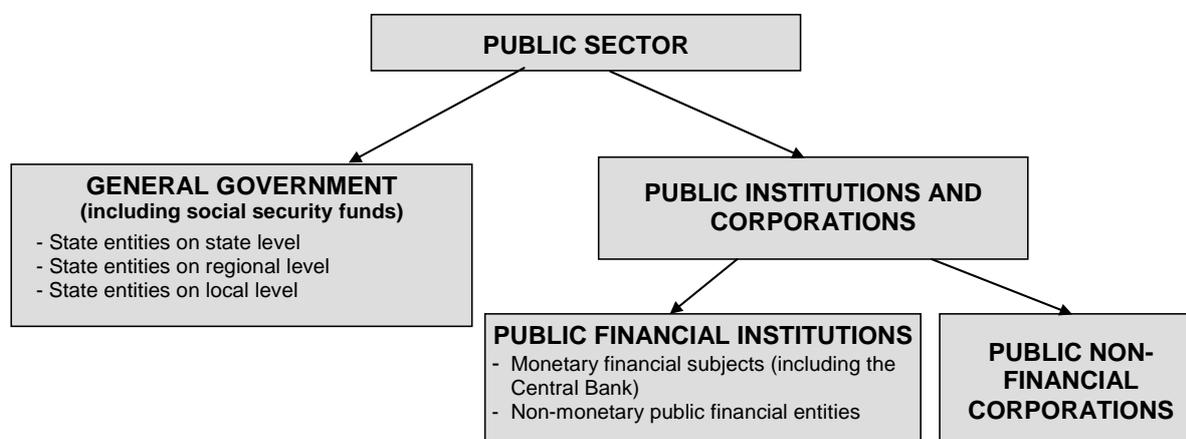


Figure 1. Public sector according to the GFS¹¹

The **general government**¹² consists of 3 levels of government, plus social funds, as a fourth type of entity:

- The **central government** (all institutional units of public administration, and those that are predominately financed and controlled by the government),
- the **regional (county) government** (all special county institutional units, and those that are predominately financed and controlled by counties),
- the **local government** (all special local institutional units, and those that are predominately financed and controlled by them),
- **social security funds**.

Entities left outside the general government (public non-financial and financial corporations and quasi-corporations) are:¹³

¹⁰ Government Finance Statistics (GFS) is a statistical system developed by International Monetary Fund. Its goal is to create a quality information support to economical analyses of general government, i.e. the public sector as a whole.

According to the principles set by the above mentioned United Nations System of National Accounts (SNA 1993, Chapter IV - Institutional units and sectors), the entire economy consists of all residential institutional units divided into five sectors:

1. Non-financial corporative and quasi-corporate companies
2. Financial institutions
3. General government
4. Private non-profit institutions
5. Population (households).

The entire international sector is added to these five sectors.

¹¹ Public sector according to the *GFS Manual 2001*, IMF, p. 22.

¹² According to *System of National Accounts - SNA 1993*, Commission of the European Communities, IMF, OECD, UN, WB, 1993, (hereinafter SNA 1993), S.13 - General government sector.

¹³ cf. *op. cit.* GFS 2001, Chapter 2, Article 54.

- **non-financial public corporations** (all residential non-financial corporations under state unit control),
- **non-monetary financial public corporations** (all residential financial corporations under general government unit control except public depository corporations),
- **non-monetary public companies** (non-financial public corporations and non-monetary financial public corporations),
- **monetary public corporations** except the central bank (all residential depository corporations except the central bank under general government unit control),
- **the Central Bank.**

As shown above (Figure 1), the Croatian public sector is set aside from the General government represent an aggregation of all public corporations, quasi-corporations¹⁴ and general government units. They perform activities of public interest and therefore under special legal treatment and at least partly financed from public sources.

The classification taken by the GFS has a few distinct features that make it interesting to our research. First, it reflects a financial approach and separates entities fully financed by the state (fiscal incomes), from those whose financing, at least partially depends on their internal “business” policy. Distinct models of financing in fact reflect a different organizational and philosophy.

It can be assumed that tasks performed by general government entities are more uniform in the technical sense and show a higher content of routines. From the financial management side, this implies a steadier flow of expenditures (outlays) that should be fed by equality steady income flows. This lends such activities better suited for administrative forms of management (time planning and relatively objective performance measurement). On the operational side of the organization, up to the point that activities are repetitive and (on average) stable in duration, process flows can be improved by process design.¹⁵

The internal organization and management tools in the “broader” public sector should respond to the specific social and market roles of the entities involved. It is expectable that the legal of discretion in undertaking managerial decisions would be much broader, in conformance with the volatility of areas (or markets) in which these entities function. Features present in the turbulent markets suggest that the space for up-front administrative planning is much narrower. Exposure to the markets requires the freedom of expressing professional (even discretionary) judgment involved in the processes of making strategic choice, defining the organizational architecture of the entity and human resources policies. (Reforms in this realm should thus primarily involve establishing professional regulator agencies. Downstream institutional level organizational realignment, in our opinion, should be undertaken by respective managers; however, though a establish process of formal approval and under the supervision of general government unit in charge.)

¹⁴ Quasi-corporations are a part of the subject within the general government. Since they sell goods or provide services on the market, they are not included into the general government, but are separated and consolidated in the financial or non-financial companies sector depending on the nature of business. (cf. *A Manual on Government Finance Statistics* 2001, IMF, Washington, 2001 (hereinafter GFS 2001), Article 2. 16. and 2. 31.

¹⁵ New public management literature sometimes refers to BPR. Business process reengineering (BPR) is a management tool that became popular in the business sector during the nineties. It represented a movement towards increasing productivity and lowering operation cost in order to maintain competitiveness. It also contributed to a surge of outsourcing; a clear definition of processes is a precondition for sound contracting.

To conclude, opinions about the rate of success of public administration reforms would be much more persuasive if applied to the general government. In other words, the conference issue of progressing from the Weberian state towards a more responsive state should dominantly concern itself the process of institutional and organizational change undergone by the General Government, even though the impact of the reforms would also be felt (and eventually measured) through the improved performance of entities in the public sector.

The 2009 Progress Report for Croatia did not choose to select the public sector reform as a special topic. However, their evaluation of the process is that even though some progress “has been made” and the “...capacity of the newly created Ministry of Administration was improved”, the political support has not been strong enough.¹⁶ Concerning the issue, the report criticizes that civil service “continues to suffer from low salaries, lack of clear performance evaluation and is not structured in accordance to a merit principle.

The Weberian nature of civil service is enforced partly due to legislation regulating Employment in Civil Service. The employment of civil servants is regulated by the Law on civil servants and employees. Professional activities are performed by civil servants, while the activities of technical support in bodies of the state administration are performed by employees.¹⁷ The internal organization of personnel is hierarchical, civil servants are appointed to their positions according to qualification criteria prescribed by law or other regulation, promotion is often subject to legally defined criteria and implies advancement to a higher level of salary.

Another issue stressed in the progress report is lack of coordination “political and technical levels”. An example is the e-Croatia project. Even though initiatives and reform programs would probably stand a chance of being better coordinated if administered from one center (supposedly The Ministry of Administration), important projects influencing process design and performance quality such as the e-Croatia is administered by a special body established and under direct supervision of the Government, Central State Administrative Office for e-Croatia.

3. THE STATE ADMINISTRATION SYSTEM FURTHER DECOMPOSED

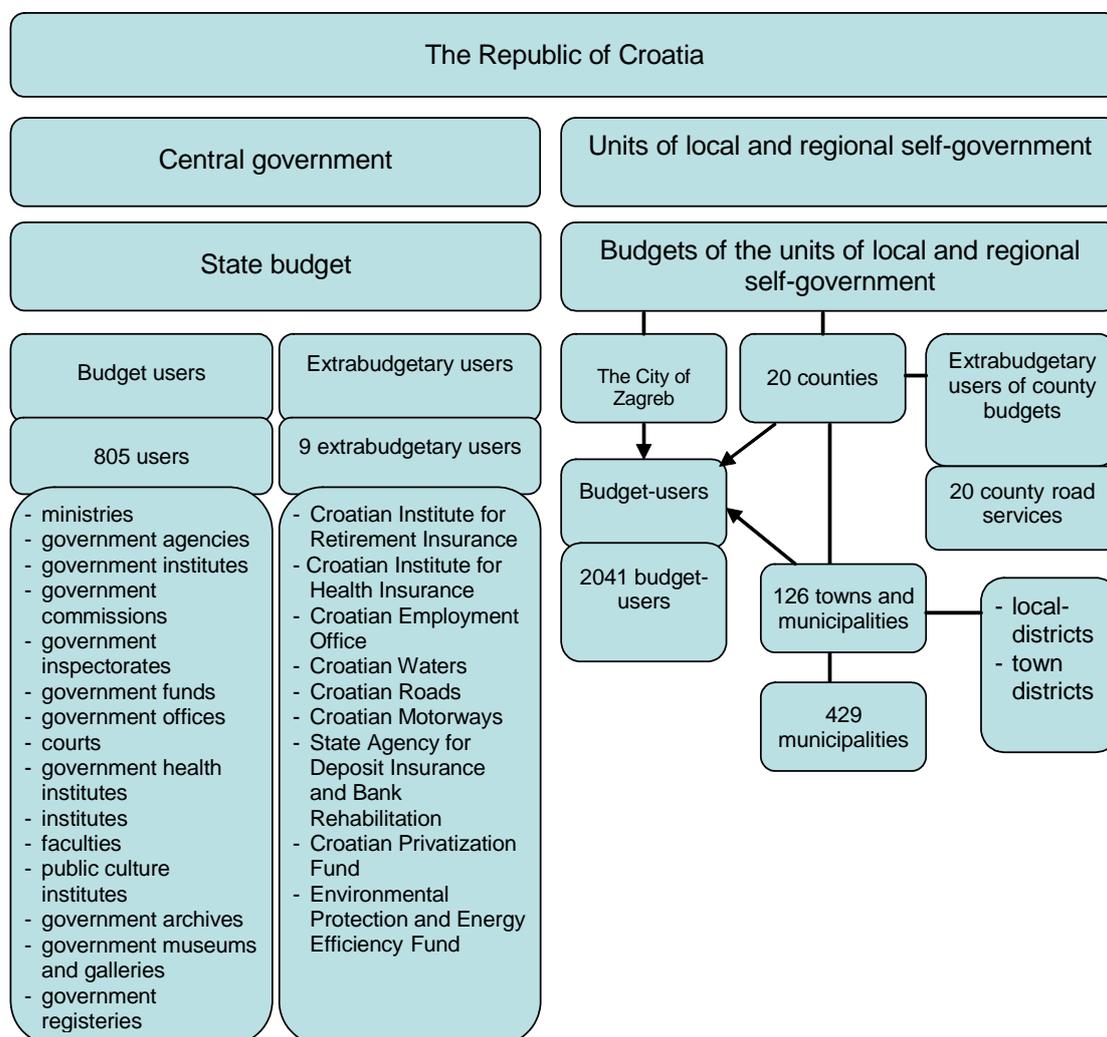
According to the Croatian legal regulations and the current political and territorial constitution, the public sector consists of:

- the general government
- the local government: the units of local self-government (municipalities and towns), and regional self-government (counties),
- users and extra-budgetary funds of the state budget and the budgets of the local and regional self-government units (including local self-government and councils of minorities),
- institutions, financial and non-financial units such as trading corporations and other legal entities in which the government or the local or regional unit of self-government have the decisive influence on management.

¹⁶ Croatia Progress Report 2009, pp. 7-9.

¹⁷ Ministers, state secretaries and assistants, directors of state administrative organizations, and state secretaries and assistants are **officials** of the Republic of Croatia.

A further disaggregation of the **General Government**, shows it is rather complex itself as can be seen from Figure 2.



Source: authors.

Figure 2. Institutional scope of the general government

The **Law on the System of Government Administration** defines government bodies through four categories:

- Ministries,
- State Administration Offices (central government offices of the Government of Republic of Croatia)
- Public administrative organizations,
- Government offices in units of regional self-government (counties).

Ministries

Ministries are founded by the Croatian Parliament and the Law on the Organization of Ministries and State Administration Bodies. Ministries are organized to conduct government business in one or more administrative areas. In principle, within the ministries that are established for more administrative areas there are administrative organizations established

that act in scope of particular Ministry. Administrative organizations within the ministries can be government administration, institutes and directorates. Ministries are organized to conduct government business in one or more administrative areas.

Ministries perform the following tasks:

1. directly apply laws and other regulations,
2. ensure implementation of laws and other regulations,
3. prepare drafts of proposed laws and proposals of other regulations,
4. deal with administrative matters in the first instance in case when the law expressly authorize them for that and in the second instance, if anything else specific is stated by the law,
5. carry out administrative and other inspection,
6. keep and maintain prescribed records,
7. monitor the situation in their jurisdiction and propose undertaking of the appropriate measures for the relevant state bodies,
8. prepare professional basis for decision-making in public bodies,
9. provide cooperation of professional and scientific institutions and propose the establishment of certain departments and professional institutions to the relevant state bodies.

The activities of the ministry are managed by the Minister who is responsible to the Government. Ministries of the Republic of Croatia are the following:

1. Ministry of Foreign Affairs and European Integration
2. Ministry of Finance,
3. Ministry of Defense,
4. Ministry of Interior,
5. Ministry of Justice,
6. Ministry of Economy, Labor and Entrepreneurship,
7. Ministry of Maritime Affairs, Transport and Infrastructure
8. Ministry of Agriculture, Fisheries and Rural Development,
9. Ministry of Environmental Protection, Physical Planning and Construction,
10. Ministry of Health and Welfare,
11. Ministry of Science, Education and Sports,
12. Ministry of Culture,
13. Veterans' Affairs and Intergenerational Solidarity
14. Ministry of Regional Development, Forestry and Water Management
15. Ministry of Tourism
16. Ministry of Public Administration

The Ministry of Public Administration was established by the Law on Amendments to the Law on the Organization of Ministries and State Administration Bodies (Official Gazette, 77/09). According to the same law the Central State Administration Office ceases to operate. Upon entry into force of this Law, the Ministry of Administration takes over operations, equipment, archives and other documents, instruments of labor, financial resources and the rights and obligations of the Central State Administration Office, as well as civil servants and employees that were engaged on activities overtaken.

The Ministry of Public Administration performs administrative and professional tasks related to the system and structure of state administration and local and regional (regional)

governments, political and electoral system, the personal status of citizens, registration of political parties, trusts, foundations and other entities established by special laws; planning and monitoring of employment in state administration; training and legal position of employees in state administration and local and regional (regional) self-government; encouraging academic and professional development of public administration; activities of management and inspection in all government bodies and local and regional self-government; management of funds for the improvement of administrative capacity through the development of service culture in government administration; directing the reform and modernization process in the entire administration; application of ethical principles; monitoring of use of funds and application of modern methods in state administration, especially the application of computer and communication systems in work and introduction of new technologies in the work of state administration offices in counties; conducting activities for an international commission of civil status (CIEC), achieving international cooperation in matters of administrative law, public administration and local self-government; performs other activities of general administration.

The Ministry of Administration performs other administrative and professional tasks which were delegated to the bodies within its competence by the special law, as well as tasks that are not within the competence of other central bodies of state administration

The Government of the Republic of Croatia exercises executive power in accordance with the Constitution and the law. Government consists of a Prime Minister, one or more deputy ministers and ministers. One of the deputy ministers is appointed as Deputy of the Prime Minister. All of them must be Croatian citizens. They take responsibility when they obtain votes of the majority of all members of parliament. The Government is responsible to the Croatian Parliament. President of Croatia with the co-signature of the President of Croatian Parliament makes a decision on the appointment of the President of the Government while decision on the appointment of members of the Government is brought by the Prime Minister with co-signature of the President of the Croatian Parliament. The Government Cabinet consists of Prime Minister and Vice-Ministers and the Prime Minister's Office performs professional and administrative work for the President and according to his orders. The work of the Office is governed by the Head of the office in the position of state secretary appointed by the Government of Croatia based on the proposal of Prime Minister of the Government of the Republic of Croatia.

The government is working on sessions that are public, but also the Government may decide that a meeting or discussion about particular items is conducted without public attendance. The government can sit if the majority of the members of the Government is present at the session. The government decides by a majority vote of all members of the Government. Government decides by the 2 / 3 majority in case of following proposals to the relevant state bodies:

- amending the Constitution of Croatia,
- association or dissociation from other countries,
- change of borders of Croatia,
- dissolution of the Croatian Parliament,
- calling a national referendum,
- action of Armed Forces outside the borders of Croatia.

Government offices are managed by the Secretary of State responsible to the **Prime Minister**. The Government formed the following government offices:

1. Prime Minister Office
2. Public Relations Office
3. Office for Protocol
4. Legislation Office
5. Office for Internal Supervision
6. Office for Cooperation with NGOs
7. Office for Prevention of Drugs Abuse
8. Office for Social Partnership
9. Office for Gender Equality
10. General Administration Office of the Croatian Government and Parliament
11. Office for National Minorities
12. Office of Human Rights.

There is also the Category of Central State Administration Offices:

1. Central State Administrative Office for State Property Management of the Government of the Republic of Croatia
2. Central State Administrative Office for e-Croatia of the Government of the Republic of Croatia
3. Central Office for Development Strategy and Coordination of EU funds

Apart from government offices, there is a list State Administrative Organizations:

1. State **Institute** of Radiation Protection
2. Central **Bureau** of Statistics
3. State **Office** for Nuclear Safety
4. State **Bureau** of Metrology
5. State Intellectual Property **Office** (legal regulation and advice/education)
6. State Inspector's **Office**
7. Meteorological and Hydrological **Service**
8. National Protection and Rescue **Directorate**
9. State Geodetic **Directorate**.

Under the scope denominated “Public Sector” on the official Government web page (accessed January 27, 2009) there is an even longer list of entities:

1. Central **Register** of Insured Persons (REGOS)
2. Croatian **Institute** for Health Insurance
3. Croatian Employment **Institute**
4. Croatian Standards **Institute**
5. Croatian Pension Insurance **Institute**
6. Croatian Hydrographical **Institute**
7. Croatian Geodetic **Institute**
8. Croatian Privatization **Fund**
9. Croatian Demining **Centre**
10. Croatian Information and Documentation Referral **Agency**
11. Croatian Accreditation **Agency**
12. Croatian Academic and Research **Network** – CARNet
13. Croatian **Agency** for Supervision of Financial Services (HANFA)
14. Croatian **Agency** for Small Business
15. **Fund** for the compensation of expropriated property

16. Financial **Agency** (FINA)
17. State **Institute** for Nature Protection
18. State **Agency** for Deposit Insurance and Bank Rehabilitation
19. **Center** for Human Rights
20. Croatian Competition **Agency**
21. Croatian Personal Data Protection **Agency**
22. Environment **Agency**
23. Trade and Investment Promotion **Agency**
24. **Agency** for Transactions and Mediation in Immovable Properties.

The list above suggests the vast variety of organizational entities of very different denomination (1 register, 1 network, 7 institutes, 2 centres, 2 funds, 11 agencies). They also differ in size, professional area, level of activity, exposure to service users, etc. Differences involved make them system hardly inaccessible to supervision, and probably impossible to manage (or thoroughly reform). Still, by law, the obligation of the Government within the system of state administration is to coordinate and supervise the performance of state administration affairs and supervises the implementation of the representation of ethnic minorities in state administration bodies.

4. LOCAL GOVERNMENT – INSTITUTIONAL SCOPE AND JURISDICTION

Units of local self-government (hereinafter LGU), and respectively, units of regional government (hereinafter RGU) in the Republic of Croatia were established by the Act on Counties, Cities and Municipalities in the Republic of Croatia¹⁸, with the aim of carrying out the activities in their area of jurisdiction as stipulated by the Constitution of the Republic of Croatia and the Act on Local Self-Government and Administration¹⁹, i.e. the Act on Local and Regional Self-Government²⁰. Namely, the Law ratifying the European Charter on Local Self-Government adopted the principles of the European constitution of local self-government (Official Gazette MU No. 14/97 which entered into force on October 17, 1997) and was followed by the Act on Local and Regional Self-Government by which these principles were incorporated into the system of local self-government in the Republic of Croatia (Sarvan 2007).

The right of citizens to local and regional self-government is guaranteed by the Constitution of the Republic of Croatia²¹. The right to a local and regional self-government shall be realized through local, respectively regional representative bodies, composed of members elected on free elections by secret ballot on the grounds of direct, equal and general voting rights. (The Constitution of the Republic of Croatia)
Municipalities and towns are units of local self-government and counties, units of regional self-government.

The areas of activities under local and regional jurisdiction are determined in the way prescribed by law, where priority is given to those bodies which are closest to the citizens. In

¹⁸ Official Gazette, No. 10/97, 124/97, 50/98, 68/98, 22/99, 42/99, 117/99, 128/99, 44/00, 129/00, 92/01, 79/02, 83/02, 25/03, 107/03 and 175/03.

¹⁹ Official Gazette, No. 90/92, 94/93, 117/93, 5/97, 17/99, 128/99, 51/00 and 105/00.

²⁰ Official Gazette, No. 90/92, 94/93, 117/93, 5/97, 17/99, 128/99, 51/00 and 105/00.

²¹ Official Gazette, No. 56/90.

the process of determining the jurisdiction of local and regional units of self-government, the scope and nature of affairs and the requirements of efficiency and economy are taken into account. (The Constitution of the Republic of Croatia: 134).

The units of local and regional self-government have the right, within the limits provided by law, to regulate autonomously the internal organization and jurisdiction of their bodies and accommodate them to the local needs and potentials.

In accordance with the Constitution, the LGUs and RGUs are autonomous in carrying out the activities within their jurisdiction and subject only to the review of the constitutionality and legality by the authorized governmental bodies.

The LGUs perform the activities of local jurisdiction directly fulfilling the needs of citizens, in particular those activities related to the organization of localities and housing, area and urban planning, public utilities, child care, social welfare, primary health services, education and elementary schools, culture, physical education and sports, customer protection, protection and improvement of the environment, fire protection and civil defense.

As stipulated by the Act on Local and Regional Self-Government, **municipalities** and **towns** within their self-government jurisdiction, carry out the activities of local significance which directly fulfill the needs of citizens and which are not assigned to state bodies either by the Constitution or by law, especially activities related to the organization of localities and housing, area and urban planning, public utilities, child care, social welfare, primary health services, education and elementary schools, culture, physical education and sports, customer protection, protection and improvement of the environment, fire protection and civil defense, traffic and traffic infrastructure and other activities pursuant to particular laws. Laws that stipulate each of the mentioned activities determine the affairs that shall be organized and carried out by municipalities and towns.

Pursuant to the same Act, big cities, with over 35,000 inhabitants, are units of local self-government and, at the same time, economic, financial, cultural, health, traffic and scientific centers of broader regional development. Big cities, as well as county centers, within their self-government jurisdiction carry out the activities of local significance that directly fulfill the needs of citizens, especially those activities related to the organization of localities and housing, area and urban planning, public utilities, child care, social welfare, primary health services, education and elementary schools, culture, physical education and sports, customer protection, protection and improvement of the environment, fire protection and civil defense, traffic and traffic infrastructure within their boundaries, maintenance of public roads, issuing building and location permits and other acts related to construction, managing physical planning documents within its boundaries, and other activities pursuant to particular laws.

Counties, within their jurisdiction of self-government, carry out the activities of regional significance, in particular those related to education, health service, area and urban planning, economic development, traffic and traffic infrastructure, maintenance of public roads, planning and the development of a network of educational, health, social and cultural institutions, issuing building and location permits and other acts related to construction, managing physical planning documents for areas not included into city boundaries, and other activities pursuant to particular laws.

In conformity with the Act on Counties, Cities and Municipalities in the Republic of Croatia, in the republic of Croatia there are:

- 429 municipalities;
- 126 towns;
- 20 counties and
- the City of Zagreb.

The units of local and regional self-government may, coherent to their interest, establish public institutions and other legal entities for carrying out economic, social, public utility and other activities.

These legal entities perform the activities in conformity to special regulations set by the mentioned Act on Local and Regional Self- Government, the Budget Act²² as well as general acts (*lex generali*) that regulate the system of local self-government in the Republic of Croatia.²³

5. CONCLUSION

As in other countries, the public sector in Croatia has been developed to satisfy the public needs, as well as to perform the fundamental functions of the State. The field of activity of public administration, and thus of the administration of convergence is very broad and complex. In order to perceive the complexity of the functioning of the Croatian public administration the institutional framework of Croatian public sector and the basic components of the state administration and local self-government are presented. The Croatian public sector and its integrated sub-sectors are defined according to the methodology of the Government Finance Statistics (hereinafter GFS), International Monetary Fund (hereinafter IMF), United Nations System of National Accounts (SNA) and European System of National Accounts (ESA 1995).

Croatia has a two-tier system of government administration: central and local government administrations. International and Croatian legislative definitions of the public sector are not defined uniformly.

The first step needed in order to evaluate public sector reforms undertaken in the past two decades would be to devise a system for sorting out different types of government bodies and quasy-autonomous entities that would differentiate entities first by function and secondly, by appropriate governance modes.

²² Official Gazette No. 87/08.

²³ The mentioned acts apply only to the activities of legal entities in L(R)GU ownership, in addition to the regulations stipulated by the Companies Act (Official Gazette Nos. 111/93, 34/99, 121/99 – authentic interpretation 52/00 – decree of CCRC and 118/03) and Institutions Act (Official Gazette Nos. 76/93 and 29/97).

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**LOCAL SELF-GOVERNMENT REFORMS AS AN AMBIVALENT
MEANS FOR PEACE AND SOCIAL INCLUSION:
THE CASE OF FORMER YUGOSLAV REPUBLIC
OF MACEDONIA (FYROM)**

Panagiotis KARKATSOULIS
Hellenic Ministry of the Interior
Greece

Abstract

Local governance seems to be a promising tool for upgrading both concepts of Governance and Decentralization. It is supposed that certain weak points of previous, traditional models of decentralization have been identified and can be overcome. The managerial paradigm sees local self-government as resources, human potential and infrastructure facilities that should obey to certain economic rationales and restraints concerning local budgets. On the other hand, local Governance gives emphasis to the issue of public consultation and citizens' participation in the decision making process. Through the examination of the FYROM local self-government reform case we are going to shed light on similarities and differences among the literature approaches to local self-government and the implementation of such reforms in real life.

1. INTRODUCTION AND PROBLEM ADDRESSED

Since local governance is considered to be the modern constructive proposal to traditional approaches to decentralization, it seems as the next logical step for decentralization reforms in the transition/ post-conflict countries. The models currently applied in these countries are a mixture of older, traditional approaches to decentralization that have reached their limits in the way they have been practiced all over the world. More important, they are usually enforced through external pressure and interventions in a series of governmental maneuvers, often without any political, administrative or social consensus. This being the case, the outcomes are limited and their main goal, namely the establishment of peace, social inclusion and welfare, remains unattained. The point that the paper is going to illustrate is that current decentralization practices in transition countries and, especially, in the so called post-conflict countries, are still far behind the local governance concept.

2. THE THEORETICAL BACKGROUND AND THE CONTEXT OF LOCAL GOVERNANCE

Local governance seems to be a promising tool for upgrading both concepts of Governance and Decentralization. It is supposed that certain weak points of previous, traditional models of decentralization have been identified and can be overcome. According, for example, to the legal concept, decentralization is defined as a set of competencies that should be transferred from central to local administrations. In this case, reformers have to prioritize and to find out how this set of competencies can be managed in accordance with the recommendations of the economists/managers. The managerial paradigm sees local self-government as resources, human potential and infrastructure facilities that should obey to certain economic rationales and restraints concerning local budgets. On the other hand, local Governance gives emphasis to the issue of public consultation and citizens' participation in the decision making process, while leaving the classic tools untouched. If to these two perspectives the governance concept is added, reformers in the transition/post-conflict countries are led to a theoretical and practical confusion. Indeed, it is a Herculean task to prioritize programs and actions that reflect different philosophies of local governing. At this point it must be underlined that, although there exists a rich bibliography on decentralization in the transition countries, in all its financial, managerial and legal aspects, there are only few references to the decentralization concept itself. We distinguish, very roughly, three conceptual 'ages' of decentralization.

A. According to the first one that appeared some decades ago, "local self-government development" was rather a copy of central bureaucratic administration than a differentiated, emancipated concept of administrating local matters. Functions and structures were transferred from the central to the local level accompanied by allocations from the state budget. This development probably fulfilled the request for local autonomy, but did not respond often to an economic rationale. The reproduction of the bureaucratic model to the local level led to deficiencies similar to those in the central state administration: Severe financial austerity, organizational malfunctions, low quality of services that led to a lack of trust and therefore to a legitimacy crisis of both levels of public administration. During the late seventies, the stagnation of the municipal administration in many European countries has demonstrated the limitations of the traditional approach to decentralization.

B. The appeared crisis, especially in the financial field, was tried to be tackled through the introduction of market solutions that contribute directly or indirectly to the rationalization of administration's budget. Privatization, merger of services and all kinds of functional or structural reforms aiming at administrative down-sizing have been set as an absolute priority of all reform agendas during the '80's. New Public Management (NPM), the most popular reform model during the '90's, included, in an undifferentiated way, all kinds of reform activities, but concentrated mainly to performance improvement and budgetary sustainability. Anyway, NPM should not be condemned as a copy of neo-liberal cut-back solutions of the 80's. It comprises programs and actions, like the quality of services and public consultation, that could be seen not only as alibis to the marketization of the State, but as a real effort to combine democratic and market values. In our point of view, some objectives of NPM could be considered as pre-entry mechanisms to Governance, which consists the third conceptual scheme, according to our distinction.

C. Market solutions for the rationalization of local budgets have shown their limits when an emancipated civil society emerged. The unanswered question "economic rationalization for whom?" that referred to the necessity of re-distribution policies as well as to the demand for a wider civil participation in the decision making process, was the driving force for the re-orientation of the reform strategy. It was the age of Governance.

2.1. The definitions of Governance

Starting from the late '90's, the definition of Governance was not so much of ontological, but rather of procedural nature. Governance was described as "*a process through which institutions, corporations and citizen's groups organize their interests, exercise their rights and obligations and mediate their differences*" (United Nations, 2001).

From a totally different viewpoint, the World Bank defined "good Governance" as a means for an effective distribution of humanitarian aid. More specifically, governance was "*the exercise of political power in order to administrate the affairs of a nation*" (World Bank, 1989, p. 60) and it was set as a reliability precondition for states claiming humanitarian aid. In that case, Governance was not confined to its procedural definition, but reached beyond that to a substantial definition. Governance cannot exist without Government; this conclusion seems to be totally opposite to those considering Governance as the dissolution of the State and its transformation to one – amongst others – stakeholder.

A similar definition of Governance, indicating the return of a strong state, appeared with reference to effective mechanisms combating corruption in CEE countries.

Paradoxically, the request for a strong state emerged again, when a discussion was initiated about the elimination of the side effects caused by market reforms in countries that have applied NPM reforms. The most famous example is that of UK, where the unintended consequences of NPM reforms have been dealt with the development of a solidarity network (Rhodes, 2003, Klijn, 2003), which reflects the basic characteristics of Communitarianism.

All of the above mentioned movements, re-inventions and policies find in the municipalities the ideal administrative level to test their adequacy. The old-fashioned concept of decentralization, enriched with the aspects of Networking and Communitarianism, seems to overcome the obstacles that have been piled for years.

This variety of definitions explains the confusion when reformers are trying to describe “local governance” in global terms and, furthermore, to evaluate its expressions as “good” or “bad”. “Good local Governance” has been defined as *“the set of formal and informal rules, structures and processes by which local stakeholders collectively solve their problems and meet societal needs. This process is inclusive because each local stakeholder brings important qualities, abilities and resources. In this process it is critical to build and maintain trust, commitment and a system of bargaining”* (Bovaird, 2003, p. 374). In another definition “good local governance” is described more concretely as *“a set of organizational and procedural measures for managing local public affairs, characterized by Performance (in terms of fiscal effort, discipline and operational efficiency), Participation of organized and individual citizens in decision making and Partnership between local authorities, civil society and private sector for the provision and production of local collective goods and services”* (Romeo, 2002). It is obvious that in the non procedural definition the differences between Governance and NPM are extremely weak.

To sum-up: “Good local governance” should promote integration and differentiation of the members of society, communication, respect and trust between people and local self-government authority and participation of citizens based on consensus.

3. AN ASSESSMENT OF DECENTRALIZATION CONCEPTS

Although the above-mentioned definition of local governance is generally accepted, its elaboration and, especially, decentralization policies based on it, are met only in the so-called ‘first’ or ‘developed’ world. “Good local Governance” is supposedly the applied decentralization policy in the former communist countries. Though there are many decentralization reforms in order to support the transition *“from centrally planned economy to market economy, from authoritarian centralist rule to a pluralist democracy, and from party- and state- dominated societal organization to a civil society”*, there is no special conceptual analysis. It appears as if there in an ‘one best way’ model of decentralization; however, we prefer to read this as a normative approach to decentralization that is dominant in the relative bibliography. Out of its social, political and economic context, out of its international environment, decentralization appears as a vague scheme that can *“provide opportunities for large segments of the population to participate directly in government... and for the development of new elites..., act as a check or countervailing force to national governments...and activate local and regional actors to become involved in local and regional economic and social development”* (Baldersheim, 1996, Ilnert, 2000). It is not examined if the implementation of all the above-mentioned normative expectations is possible without political commitment to decentralization, with the non-existent resources of sub-regional governments and the restrictive financial policies imposed by international organizations, usually by IMF, given also the pure capacities of the sub-national governments, both in terms of political and administrative resources.

The same logic permeates the goals of decentralization. It should obtain tasks in all the bandwidth, from the enhancement of local democracy to the support of central governments(!), the upgrading of local economy and communal services, welfare and public safety. It looks like a super-construction of super-human beings, which can transfer Heaven to Earth. There are, of course, some reservations, concerning for example the role of local culture that should be taken into account or the transformation of the previous regimes, etc.,

but examining many cases in CEE, all these do not seem to play any significant role in the official policy. Even in cases where some kind of policy re-orientation is recommended, no analysis that could serve as a basis for a pragmatic, social approach of decentralization follows (Bennett, 1997). Some attempts (Kandeva, 2001) rather obscure than clarify the picture, since they put old distinctions in new forms (e.g. the distinctions among central – eastern - western Europe not only in geographical but also in political, cultural and religious terms). On the other hand, the distinction of decentralization in different categories, according to its external characteristics (e.g. one-two tiers structure, types of laws dealing with decentralization) simply depicts the complexity of the field and it is not followed by equally complex, differentiated policy solutions.

Ten years after the ‘experiment’ of decentralization in the countries of CEE, an evaluation as far as it concerns the legal and constitutional frameworks and structures of local governments, the local politics, decision making and internal organization, the local government administration and service delivery mechanisms and the fiscal issues and financial management, gives us such a fragmented picture that is difficult to get to some general conclusions, since the characteristic differences are mainly in structure and less in the models chosen. “...*The transition is yet in progress, but the fields of alternatives have been drawn up quite clearly and the next step in selecting among these alternatives will have great impact on the final frameworks of these local government systems*” (Horvath, 2000, p. 57).

As expected, the definitions of the elements of decentralization that can have a ‘great impact’ on the ‘final’ frameworks of local government ‘systems’ revolve around the ‘stable’ in ontological sense characteristics of a municipality, such as size, socioeconomic data, number of NGOs and local media (Soos, 2001, p. 32).

“Good local Governance” is also used much in the same way to interpret a specific application of decentralization in the post-conflict areas. Nowadays, an effort is developing to systematize principles and measures, since decentralization appears to be one of the hard core policy issues in all these areas of the world (Woodward, 2002).

In that sense, good local governance in post-conflict areas should address peace keeping, sustainable access to public goods and services, particularly for vulnerable groups, such as the poor, the women and the marginalized people, and coordination of efforts among donors, NGOs and State Authorities. In such turbulent environments, good local governance contributes to the setting up of priorities and to concretization of entry points and program opportunities. Local governments sustain local development and poverty reduction, enhance central government by creating “islands of success” in the periphery and support the reduction of risks.

Health, education and social welfare are usually cut-up during the conflict period. Hence, local authorities have to provide for essential health services, build basic local services capacity, restore or construct schools, recruit and/or train teachers, offer employment opportunities and develop the micro-entrepreneurial activity.

Above all, the issue is how local public management can contribute to the protection of minority rights and the political, economic and social inclusion of minorities. Following the same normative/axiomatic way of thinking, “*the development of participatory systems of*

governance responsive to the special needs of diverse minorities has become key to stable and functioning democracies” (Biro/Kovacs, 2001).

The question which mechanisms are able to implement the previous actions and programs can be answered only by the civil society. Its assistance is, to a general estimation, crucial, in order to implement this type of policies. That is why NGOs’ capacity building is highly recommended.

Speaking in terms of timing, all the above-mentioned set of actions should be designed and implemented just after the crisis or the first post-crisis elections. In terms of the needed financial allocations, the most important derive from donors, national programs or a combination of both of them.

3.1. The basic assumptions of the case study

The aim of this paper is, through an analysis of a case study, not only to point out the normative character of the policy issues on good local governance in post-conflict areas, but also to check the theoretical implications arising from the implemented policies. On the selected case, changes and additions to the existing concepts will be proposed, so that the goals of good local governance can be attained. The analysis of the case study has been based on following assumptions:

Decentralization and local participation are not, by definition, a contribution to peace keeping. Imposed decentralization policies in areas where ethnic groups have been engaged in conflict, attract very limited legitimization.

An effective decentralization policy cannot be guaranteed by following decentralization models, which ignore the specific administrative and political culture of the post-conflict area.

Actions and programs that do not obey to a broader strategic concept are, by definition, lacking in performance. Therefore, no decentralization policy can be successful if it does not count in the central reform that transforms the state from an autocratic, bureaucratic regime to a strong, strategic one.

Since decentralization is a “hard” political issue, technocratic/econocratic/ consulto-cratc, de-politicized proposals and solutions are condemned to failure.

4. LOCAL SELF-GOVERNMENT REFORMS IN FYROM: A CASE STUDY

FYROM is one of the new independent states that have emerged out of the dissolution of Yugoslavia. After the declaration of its independence, FYROM followed a reform program aiming to its transition from the Titoic socialist structures to modern, free market economy structures and relative functions for the state.

Since the declaration of independence, decentralization was steadily a main issue in the context of the reform agenda. The country has shown some significant progress during the first years of its independence as far as the design of local self-government reforms is concerned.

When referring today to the decentralization as a reform priority, there is a continuously exhibited ignorance of the specific historic, social and administrative conditions of this area.

In the various decentralization plans and programs no reference is made to the extended self-administering system that during the previous regime has led to an extremely developed neighborhood system, where the direct involvement of the people was a reality. Looking back to the period from 1974 to 1991, the Yugoslav system of local administration presented highly progressive characteristics. A broad range of competencies, like economic regulation and national defense, has been transferred from central to local governments. Furthermore, the central state provided for an almost complete financial autonomy of the local governments. The management of the decentralized powers has been entrusted to administrative and executive bodies structured at both federal and local government levels, each having separate competencies. Local representatives were directly elected from the people and local authorities without interference from the center appointed local officials and other staff. The municipalities were very active in the promotion and development of local welfare making the Yugoslav experiment of “self-administrating” unique all over the world (Todorovski, 2001).

The crisis of this model appeared when local communities began replacing the central state in certain of its functions, provoking serious problems to fiscal policy. It was only a matter of time to prove the utopian character of a totally free from state interventions local self-government.

However, an inter-ethnic crisis that broke out in 2001 among Macedonians and Albanians, in the form of a short civil war, led to cancellation, change or transformation a lot of the initial plans of local self-government development.

There are several interpretations for the motives and reasons of the conflict between these two groups that for decades were living together in peace (ESI Macedonia Security Project, 2002). Nevertheless, it is true that the FYROM crisis was a spill-over effect of the Kosovo crisis. The crisis of 2001 had important consequences on the economy, the democratic institutions and the capacity of the administration to continue with the reform process. It accentuated the severe weaknesses of the democratic institutions of the country and emphasized the need to undertake serious efforts to strengthen the stability of the institutions guaranteeing democracy, rule of Law, human rights and respect and protection of minorities.

The civil war ended when a “Framework Agreement on peace and stability” was signed in Ohrid in August 2001 by the representatives of NATO, EU and the main political parties of the country. The Framework Agreement should be understood as a power-sharing contract between the Albanians and the Macedonians. In a sense, it could be seen as a “retreat” of the ethnic Macedonians, since they agreed to give up the monopoly of power and, further on, to recognize “*the multi-ethnic character of Macedonia’s society*” (FYROM 2001, Art.1, Par. 1.3). On the other hand, the Framework Agreement gave to ethnic Albanians more representation in the Parliament, the police force and the educational and health institutions. It guaranteed the right of ethnic minorities under the new Constitution and provided protection for the Albanian language. In return, the accord paved the way for the disarming of ethnic Albanian fighters, a process that was marshaled by NATO troops. The peace treaty was approved by the Parliament in September 2001.

In that context, the development of a decentralized Government was understood as a means for the cessation of hostilities and the establishment of a continuous peace between the ethnic groups. Among the provisions of the Framework Agreement, concerning the development of decentralized government was the revision of the Law on local self-government within 45(!)

days after its signature (FYROM 2001, Annex B, Art.1). In order to reinforce the powers of elected officials, in conformity with the Constitution and the European Charter on local self-Government and in accordance with the principle of subsidiarity, enhanced competencies related principally to the areas of public services, urban and rural planning, environmental protection, local economic development, culture, local finances, education, social welfare and health care had to be transferred from central government.

A law on local self-government funding was also announced in the Framework Agreement in order to ensure that local governments can fulfill their responsibilities.

Finally, the Framework Agreement foresaw the revision of the municipal boundaries that should be done by the local and national authorities with international participation within one year of the completion of a new census conducted under international supervision by the end of 2001 (FYROM 2001, Article 3).

Two years after the signing of "Framework Agreement" the results are rather disappointing, since only few Laws transferring competencies to the Municipalities have been passed, the Law on funding is still on paper and the new territorial division remains under discussion.

Reviewing the main actions provided by the Framework Agreement one by one, some major remarks could be formulated:

4.1. Legal transfer of competencies

Generally, the transfer of competencies constitutes an extremely complicated, time-consuming process. In the transition countries, where radical changes in the social, political and economic structure are taking place, the transfer of competencies becomes an even more difficult task. In FYROM, where the ethnic conflict added acute problems to the already existing ones, the "Law on Local Self-Government" (FYROM 2002) was considered as the proper response to the issue of competence transfer, but produced poor results. The law assigns crucial issues such as the financial arrangements and the exact nature of process of power transfer to later legislation.

Furthermore the monitoring of this transfer process, which consists a purely political bargain, was left to a collective body, namely the Inter-ministerial Coordination Body (ICB), where all the involved Ministries are represented. The ICB has been charged not only with the drafting of the relevant legislation, but also with the review of the financial implications of the delegation of powers and the communication with all stakeholders during the decentralization process.

In its almost sixth months of operation, ICB has shown significant drawbacks due to usual problems that every newly created administrative body faces: lack of experience, know-how, management and resources.

Most important was the lack of political guidance and the weak monitoring of ICB's work having as a result the limited response of the line Ministries to the request of the Ministry of Local Self-Government for competence transfer.

It seems that the new government (October 2002) has the required political will to proceed with the decentralization reforms. Indeed half of the Ministries have recently announced that the relevant draft laws are ready.

Nevertheless, it should be mentioned that the transfer of competencies is still understood by the line Ministries as a bureaucratic legalistic task, they are forced to complete. Decentralization is conceived in a mechanistic way and not as a complicated socio-legal process that should ensure:

- citizens participation in the decision making,
- organization and functioning of relevant (legislative and executive) bodies in the local self-government units,
- sufficient assets and financing of the local self government units,
- requisite supervision of the work of the local self government units, and
- cooperation between the bodies of the municipalities and the regional offices of the ministries and other state administration bodies.

4.2. Re-definition of territorial boundaries of the Municipalities

Territorial reform is considered the first and foremost of the essential steps of decentralization, especially for the CEE countries, if local authorities are to use resources more effectively and address the real needs of citizens (Kandeva, 2001, p. 24). However, there is no fixed proposal whether municipalities should be bigger or smaller in the transition countries and the prevailing political and administrative culture should always be taken into account.

The general trend in the CEE countries that moved from the consolidation of the '70's to the fragmentation of the '90s is also the case of FYROM. (Swianiewicz, 2002, p. 6, 17).

It should be stressed once again that the territorial reform represents the most crucial of the issues connected with the progress of the reform in FYROM. It had been announced before the Framework Agreement as a re-definition of the existing municipal boundaries traced according to the "Law on Territorial Reform and Definition of the Boundaries of the local self- government units" of 1996. In 1996 the territory of FYROM was divided into 123 municipalities plus the metropolitan City of Skopje instead of the previous 34 Municipalities.

The 1996 territorial reform policy seemed to have been designed *lege artis*. However, its implementation did not follow the work plan of 1995. The initial proposal of the ad hoc committee to create 73 Municipalities was amended through the parliamentary procedure and the total number of Municipalities reached the present number of 124. Behind the numbers, one can find the unchangeable, costless rhetoric and the typical schism among normative announcements and real facts.

The initiative for re-examining the municipal boundaries undertaken almost two years after their new definition proved the existence of serious shortcomings and weaknesses. The newly created Municipalities had to operate with extremely poor resources and means and their failure was somewhat predetermined. The civil war and the subsequent economic crisis affected seriously many of them. The subject of the extremely pure capabilities of the municipalities to accomplish efficiently their new competencies was repeatedly underlined in several reports on the territorial division (Pyndt, 2002, p. 2).

In order to better understand the problem it must be said that the municipalities differ substantially in the level of social, economic and infrastructure development. The density of population ranges from less than 1 inhabitant per square kilometer in the scarcely populated

municipalities to more than 4500 inhabitants per square kilometer in the densely populated municipalities. Around 60% of the municipalities have less than 10.000 inhabitants, and 38% municipalities have less than 5.000 inhabitants.

The Strategy of 1999 (FYROM 1999) identified the priorities of a territorial division policy and proposed the amendment of the Law on Territorial Division in order to correct mistakes, faults and inconsistencies by applying clear, precise and transparent criteria and observing the provisions for consultation with the local population on the changes of boundaries. Since the Constitution of FYROM does not provide for the establishment of regions and local self-government units, neither on a horizontal nor on vertical basis with superiority of the regions over the municipalities, a model of municipality having adequate staffing, equipment and funds to perform the original and the delegated responsibilities should be designed and two types of municipalities (small, large) according to certain criteria (population, economic and financial potential, etc.), should be set up.

Despite of the registered strategic goals and due to the inertia of the previous administration to proceed with the implementation of the new territorial reform, no relevant concrete policy actions have been taken during the last year.

On the other hand, according to international organizations, the new territorial reform represents an emergency not only for fiscal but for political reasons as well (International Monetary Fund 2002). Though it is a common estimation that the complexity of the task requires a serious and substantiated research of every related aspect, in order to avoid the mistakes of the past, some jump into conclusions without any analysis of the reality (IMF 2002, p. 6).

Suggestions about the integration of territorial reform in a general strategic framework, based on elaborated criteria and broad consultation with all ethnic groups, seems to be weaker than the political-economic rationale of IMF's proposals. In fact IMF's proposals have a political character, since they link the territorial reform with fiscal decentralization, implying that *"a new territorial structure with a significant reduction in the number of municipalities will be in place before a new Law on local government financing is finalized, and before fiscal decentralization proceeds"* (IMF 2002, p. 6). The margins left for arriving at any kind of consensus are obviously very narrow and the principles of good local governance are drifting away.

4.3. The political leadership of the reform

Three major sub-issues should be raised as far the leadership of the reform is concerned. The first one has to do with the linkage of decentralization with a general strategy, while the second refers to the specific issue of the guidance of the concrete efforts that have been undertaken up to know. Closely related to the latter is the third issue about the role of donors.

4.3.1. The lack of a coherent socioeconomic strategy

Having already mentioned the peculiar circumstances under which decentralization has been enforced to FYROM, we have to point out that this reform lacks the necessary vision or strategy and any existing one is not communicated to the parties involved. Since government

announced plans to implement a decentralization policy, certain characteristics of the socioeconomic environment should have been taken into account. It is imperative that convincing answers are given to the population regarding why and how decentralization can assist the efforts against unemployment, fight off the fear of a new war, reduce poverty and corruption and avert ethnic conflicts. In a recent opinion poll the above issues were listed as most important problems of the country with 70%, 45% , 41%, 40% and 32% respectively.

It is well-known that there is no clear, causal relation between decentralization and reduction of poverty or corruption. Its effectiveness depends on the clarity and coherence of the policies applied and, above all, on the commitment of the involved parties (Ministry of Foreign Affairs of the Netherlands, 2002, p. 7). Furthermore, the decentralization strategy must take into consideration that citizens estimate the pace of transition to market economy after the crisis, as too slow (56%) and feel that their personal economic situation is deteriorating every year. Politicians and policy designers should know that the political system stands under serious doubt and 59% of the population declares themselves dissatisfied with the existing situation (SEEDS Network, 2002).

In FYROM, an implementation strategy that takes into account citizen's attitude on all above policy issues has not been produced. If decentralization does not come up with sustainable solutions to the basic problems of the population, if it does not contribute to the improvement of citizens' welfare, then it gets no legitimization.

4.3.2. Overlapping and confusion in leadership

According to the model of governing through Deputy Prime Ministers, applied in several transition countries, FYROM is implementing a multi-head leadership, which has been proved to lead to confusion of powers, duplication of structures and deadlock situations. Following to this governmental scheme, a Deputy Prime Minister is appointed to guide and monitor a specific policy sector for the purpose of a better coordination of the line Ministries.

As far as the case of FYROM is concerned, this practice led to a duplication of structures. Having on the one hand, a line Ministry with horizontal character, namely the Ministry of local self-government and on the other hand a Deputy Prime Minister responsible for local self-government, the overlapping of competencies is rather an expected outcome. Albeit the double structure - or because of it - no progress on decentralization has been marked and a continuous confusion and mutual tension troubled the relevant political and administrative structures and human resources.

It is not clear how this peculiar model of leading and coordinating has emerged, besides the fact that it was -and still is- a fervent wish of the foreign donors. The difference from the well-known European models of leadership, namely the "Anglo-saxon", where the leadership of the reform rests with the Prime Minister himself, assisted by a Minister of the Cabinet Office, and the "Continental" one, where the responsibility carried out by a powerful - in most cases- Minister, is that the FYROM model has not evolved through cultural, administrative and social selection processes.

Moreover, the political will, being a precondition for the implementation of the reform, seems to be lacking at both levels. Although the previous Government adopted an Action Plan for the implementation of the Law on local self-government it was never applied. The

developments have indeed justified the fears that the lack of political guidance could gradually transform the decentralization process into a vague scheme and that the whole operation could be drowned in the sea of conflicts among competent State Agencies.

4.3.3. A divided Society

The reluctance of the Government to proceed with decentralization is well understood if we examine carefully the public opinions on this issue: On the one hand, the ethnic Macedonians prefer a verbal than a real commitment to decentralization and, on the other hand, the ethnic Albanians insist on a full implementation of the Framework Agreement, focusing on the education and health competencies transfer. Indeed, surveys of public attitudes show that a respectable percentage of the population (42%) (ethnic Macedonians) fear that decentralization might lead the country to a federation. This percentage has decreased over the past months about 10% but is still a telling factor. The same polls show a growing dissatisfaction with local government. An increasing number of voters are expressing total lack of confidence in their local authority (55%). Local authorities are less respected (17%) than NGOs (35%), the Church (50%) and the Army (55%) (SEEDS Network, 2002). As a result of all these, the expectations from the decentralization process are diminishing. The percentage of those who feel that decentralization could reduce the levels of corruption has fallen below 25% from 40% at the beginning of the reform process. Fewer people also feel that decentralization will improve services (down to 40% from 50%) or that it will lead to greater public participation (down to 45% from 60%). The confidence in the process of improving ethnic tolerance is down to 35% from 45%, as is the confidence in the process of increasing employment (now below 50% and falling) (BRIMA, 2002).

Politicians incite the fears and hesitations of the population, maintaining the gap among the two biggest ethnic groups and counting on the installation of the feeling that decentralization is not a policy option that would lead to their economic and social welfare (Georgievski, 2003).

4.3.4. The role of donors

Since decentralization consists a sensitive process, both in political and cultural terms, the donors should play only a limited role in it. Instead of that, far from being facilitators and catalysts of communication between the affected groups, the major among them dictate, in several occasions, their view on decentralization policy. A series of doubtful, in their effectiveness, projects and actions financed by those donors cannot replace the absence of policy and political guidance of the reform process. Besides, the coordination of their efforts is impossible.

It is quite strange that donors understand their role as competitive and rarely share some information, but, at the same time, their programs and actions are streamlined in an impressive way. They readily agree on positions having very little or no knowledge at all on the issues concerned, engage in noise, useless discussions and waste of money. Such a phenomenon could be interpreted in view of the fact that most donors have no connections with the real society, do not use top quality experts, they mislead and are misled (O' Sullivan, 2003).

Regarding decentralization, donors are running two types of projects in FYROM. The first type involves groundwork projects, i.e. dealing with certain Municipalities, either directly or

indirectly through NGOs, for housing and reconstruction, water and sewage infrastructure. In the second type of projects, the donors are working within state agencies assisting them in institution building, as far as the implementation of the decentralization policy is concerned.

4.3.5. NGOs and decentralization

On normative, ideological level, there is no question about the importance of the role of civil society and NGOs in the progress of decentralization. It is true that any successful local self-government reform requires responsible and proactive citizens. However, skepticism is expressed, if we contemplate on how the long prevailing apathy of citizens, inherited from the previous autocratic regime, has been transformed so quickly into a robust civil society with approximately 2.500 NGOs in a country of 1.8 million people. Furthermore, since there are no criteria concerning the sustainability of NGOs and their financial capacity, the question that raises is if the miscellaneous bigger and smaller projects, involving all kinds of NGOs, contribute really positively and speed up the decentralization process.

What is most important is what lies beneath the agenda of NGOs that is supposed to support the transition process in post-conflict countries. Today, it is common knowledge that certain interests and powers obtain, through NGOs, influence on the political game. Of course, it is strictly against any good local governance concept to substitute public consultation and social inclusion through the NGOs channels.

Nevertheless, it is necessary to establish a stable legal framework that guarantees citizens rights to access accurate information and to participate in decision making process, regarding all matters that concern them and their future. It is also necessary to promote the awareness of citizens that belong to a community and encourage them to assume responsibilities in terms of everyday participation. It is equally important to ensure that local leaders respond to the needs of those they represent and strengthen the participation of citizens in the life of their communities.

In this light it is necessary to define the strategy and identify the mechanisms for building a strong civil society and participatory governance at the local and national level.

5. CONCLUSIONS AND RECOMMENDATIONS FOR DECENTRALIZATION POLICY DESIGN

The theory that decentralization contributes to peace keeping and poverty reduction is based upon a number of assumptions that do not always accord with what it happens in practice (Ministry of Foreign Affairs of the Netherlands, 2002, p. 6).

The presented case-study provide us with the following conclusions regarding decentralization reforms in post-conflict countries:

Decentralization in crisis and post-conflict areas is a highly political process and should be tackled as such. Reducing it to a mere bureaucratic procedure brings poor results.

A strategy on decentralization in post-conflict countries is absolutely necessary. Older and newer decentralization tools, namely, the transfer of competencies, sufficient funding of the municipalities and re-definition of municipal boundaries should not be just committed to never implemented “action plans”, but recommended as normative

orientations for policies that aim at peace keeping, social inclusion and reduction of poverty. Decentralization should not be used as an indirect solution to problems related to state boundaries and the integration of ethnic groups to state entities. It should not be considered as an instrument for the de facto dichotomization of countries or areas. There can be no decentralization without a strong central state, nor can it succeed without powerful decision-making at the local level, vigorous local economic development and better services to the citizens! On the other hand, decentralization cannot yield successful results without an effective, strategic central administration and strong supervising and auditing mechanisms. In post-conflict countries, where decentralization is applied according to the traditional western way (first transfer responsibilities and then control their proper execution), it would prove unable to tackle corruption and poverty issues.

To demonstrate the benefits of decentralization it is important to concentrate all efforts towards obtaining concrete results in the every day life of the citizens. This means that the strategy for the implementation of decentralization reforms should be focused on service delivery. The repetition of methods and programs, which have met the strong resistance of the population, should be avoided in countries where the times of conflict are still in the near past. Even if there is a strong economic rationale supporting them, they should not be disconnected from their political nature. Since “local governance” is the goal and “good local governance” implies the widest consensus and social inclusion, then politics - in their initial Aristotelian sense - is a priority!

Decentralization and good local governance is a demanding time consuming process. Therefore, it is important to lower the expectations for overnight improvement in the quality of government and service provision by pointing out that it is up to local communities to find solutions within the limits of the existing economic capacity.

A successful decentralization policy cannot take place without support from the stakeholders, nor can it be implemented by force. In countries in crisis and conflict situations, especially, the decentralization should be the object of a wide communicative campaign in order to avoid fears of separatism and federalism. A broad political consensus among parties, NGOs and local communities should be established. It is better to obtain a slow, but irreversible pace of reforms than a quick and shaky process. However, as far as the donors community is concerned, it should be stressed that their support to the Government or to local Communities or NGO's should not reproduce suspiciousness and mistrust. In these types of situations the population still has the psychology of winners and losers and fears the revival of crisis. Therefore, all interventions should lead to the elimination of these fears and to the establishment of an environment of peace and safety. Hence, the clear definition of key target audiences and their commitment to the decentralization process should be an absolute priority. Advocates of the decentralization must be traced within the academic and business community, while the media can definitely play an important role in maintaining citizens' support to the central and local government projects, as well as the international donors' initiatives. Last but not least, the development of a legal framework that promotes transparency, citizens' participation in the decision making process and efficient implementation of decisions is considered an absolute necessity for the success of decentralization through the involvement of NGOs' and other associations.

Indeed, the decentralization process in FYROM proves exactly that some of the dominant prerequisites of decentralization are falsified and need to be further elaborated and updated under the light of “good local governance” theory.

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Chapter 2

Impact of Reforms on Public Administration in the Balkan States. National Experiences

THE IMPACT OF LOCAL GOVERNMENT REFORMS IN GREECE: A CRITICAL OVERVIEW

Nikolaos-Komninos HLEPAS
University of Athens
Greece

Abstract

By the beginning of the 1980s, an overwhelming majority believed that public administration would become friendlier to the average citizen if a great number of responsibilities would be delegated to the municipalities. Socialist governments (1981-1989) undertook several decentralization reforms, but were hesitated in promoting obligatory amalgamations, although demographic changes and urban pull caused an ongoing depopulation of rural areas, while small municipalities were even unable to fulfill residual tasks.

The need for efficiency was the main argument for the “Capodistrias Plan” of amalgamations (1997) that intended to re-structure the first tier and create new, stronger municipalities that would be able to cope with new tasks, promote local development, and offer “modern social services” to their citizens, especially in rural areas. By 2007, former opponents of the reform, namely the conservative leaders, initiated a debate on a second wave of amalgamations, thus implicitly acknowledging the success of territorial reform or at least the positive dynamics of a transformation that had to be completed.

A main assumption of this paper is that the organization of sub-national levels of government and governance is the outcome of a political process where the politics of territorial choice are influenced by societal arrangements and dynamics with the balance between different interests being intermediated through political processes. Territorial re-scaling, moreover, is exposed to pressures coming from supranational (European and global) as well as national levels, the outcome being an open game depending on the main features of the socio-economic and political systems in each country.

INTRODUCTION

Like other young democracies of southern Europe, Greece first reached solid democratic rule during the seventies, overcoming a long period of authoritarian state practices and political instability. Greek state tradition followed the Napoleonic model, whereas centralism went along with hierarchical and authoritarian rule. Just like other south European countries, Greek efforts to democratize the political system, pointed out the overcoming of centralism as a major challenge and necessity on the way to Europeanization and modernization of state and politics.

This paper is focusing on long lasting efforts to overcome traditional centralism, a consisting element of state and party tradition in this country. The major question is whether decentralization reforms proved to be adequate in order promote essential democratization (openness, citizens' participation, transparency and accountability) of Greek state and political system. In other words, it is investigated whether decentralization reforms, consisted a procedure that led to democratization, given the structures and characteristics of Greek political system. Vice versa, it is assessed, whether the existing structure and operation of Greek local, social, political and party hierarchies impede essential democratization and extensive decentralization.

This paper consists of seven parts. In the first part, tendencies and efforts to overcome the long legacy of paternalistic centralism are being presented. In the second part, a first period of participatory and decentralization reforms is analyzed. The third part is focusing on the shift toward efficiency prerogatives that could be stated by the mid-nineties. The fourth part turns to options and dilemmas characterizing conservative governments' attitude towards local government since 2004 and especially the collapse of reform efforts. The fifth part is examining citizens' views on local government and local politics, while the sixth part is attempting to reveal the particular importance of party politics and structures for local government in Greece. The seventh part is presenting the currently running, new effort towards a comprehensive local government and decentralization reform ("Kallikrates" project). Finally, the conclusions of this paper are formulated.

1. THE LEGACY OF PATERNALISTIC CENTRALISM: A CHALLENGE FOR THE YOUNG DEMOCRACY

By the late seventies, two parties with competing charismatic leaders, namely the conservatives ("Nea Dimokratia") and the Socialists ("PASOK"), managed to establish a long-lasting domination of the political scenery. They further succeeded in building up strong, wide-reaching and centralist party organizations that rapidly "colonized" Greek society and institutions (Mavrogordatos, 1984). This unprecedented wave of "participation" seemed to challenge the kind of traditional "backstage localism" that characterized Greek politics from the very beginning of Greek statehood.

On the other hand, Greek public opinion connected centralism to the authoritarian and paternalistic attributes of the post-civil-war Greek state (1950-1974) (Christofilopoulou, 1991). The dominating claim for "democratization" (Manassis, 1985), had placed the overcoming of centralism among the top issues of its reform-agenda. Furthermore, a widespread populist fiction blamed the "Athens-centric-state" for the plight of the province.

Costly public efforts for regional development failed, while local businessmen and investors were jeopardized through centralist patterns. State administration was notorious for ineffectiveness and instability, lack of cohesion and absence of transparency. Extreme party politicization, unreasonable procedures that strained the public, low ethics of public servants and growing corruption were disappointing the citizenry (Spanou, 1998).

During the seventies, the rising socialist party adopted a populist rhetoric in favour of the “non-privileged” citizens and the “neglected part of Greece”, while it declared local government to be one of the three “pillars of democracy” (alongside parliament and syndicalism). After it came into power (1981), PASOK undertook several reform efforts: New forms of participation were introduced, while local authorities were encouraged to provide social services, establish municipal enterprises, and endorse sporting and cultural activities. New institutions for inter-municipal co-operation (syndicates, “programmatic” contracting etc.) were introduced, while the discretionary power of municipalities was enlarged through abolition of a priori state controls. Furthermore, a growing number of municipalities were becoming familiar with the chances offered by European initiatives and programmes, international networking and public-private-partnership. Nonetheless, the revenues of the municipalities remained inadequate for their tasks, so that they strongly depended on grants from the state. Earmarked grants and national funds for local development projects continued being essential tools of central state, party and patron influence, traditionally used according to a “carrot and stick” method. By the late eighties, however, state funding became more transparent and objective, through the introduction of new general grants, the so-called “central autonomous funds”, covering an important part of operating and capital expenditure.

Although important decentralization reforms were continually initiated since the early eighties, it is obvious that Greek socialists were not really willing (or really able) to withdraw the dominant, historically rooted centralist patterns of state, party and social hierarchies. Unlike the Spanish socialists that managed to create the “Comunidades Autonomas” and transform centralist Spain into a quasi federalist country, unlike the French Socialists who created strong regional self-government and endorsed wide-reaching decentralisation, Greek Socialists proved to be rather cautious, preferring incremental, step by step procedures and reform options that would not put the primacy of central government into question. Unlike Spain and France, Greece was a small country, missing a strong and independent state bureaucracy, while Greek regional identities were rather weak (under the exception of Crete) and Greek political parties were far from reaching West European standards, in terms of internal party democracy.

Greek socialists quickly promoted functional and participatory reforms but seemed to hesitate in face of territorial reforms that would change political geography and seriously affect party and power balances. The necessity of such reforms became, however, more evident in time: New duties, additional (especially: European) funds and new modes of participation could not affect the overwhelming majority of local authorities that were too small and too weak (94% of municipalities had less than 2.000 inhabitants). By 1984, it was decided to deal with this problem in two ways: By encouraging through grants and other incentives free-willing amalgamations of smaller municipalities on one hand, and by creating new, “stronger” types of municipal syndicates (“development syndicates”, replaced by “district councils” in 1994) on the other hand. The results of these efforts were not considered as satisfactory. Some years later, only 367 small municipalities (less than 10% of the target group) corresponded to the

state incentives, have been voluntarily amalgamated and transformed themselves into 108 units, while the new types of syndicates did not live up to the expectations. Furthermore, state prefectures had been proven incapable of efficiently supporting smaller municipalities. Poor co-ordination and performance of the Prefectures became even more evident, when these administrative units failed to manage projects financed by the EC. Low efficiency of state administration and local government did not, however, become a matter of priority for Greek governments up to mid-nineties. Devolution of power and responsibilities, citizens' participation and the incorporation of excluded groups and neglected areas were obviously deemed as more important during this stabilizing and healing period of the Third Republic.

2. PARTICIPATION AND DECENTRALIZATION: THE FIRST WAVE OF REFORMS (1982-1995)

Efforts to delegate power from state authorities were expected to enhance local government and emancipate local societies from traditional schemes of rigid state controls and hierarchical political patronage. In deed, several administrative tasks have been transferred to local authorities: Local protection of the environment, school maintenance, urban development and transportation, nurseries and elderly care, as well as licensing and supervising responsibilities for local businesses and trade were some of the duties delegated to local government since the early eighties. Furthermore, traditional political attitude in local government was supposed to change through new institutions that would promote participation of the citizens in municipal affairs. In the big cities, neighborhood or "departmental", directly elected councils have been established. In municipalities with less than 10,000 inhabitants the mayor would now be able to convoke the local citizen's assembly in order to discuss serious local problems. In some cases, local referenda have been de-facto practised. Pretty soon, these institutions turned out to be some kind of a playground for party members and well-organised minorities, while most of the citizens simply kept away. In many cases people's assemblies and local referenda have been used in order to express local disappointment about state decisions. By the end of the eighties, such institutions and practices seemed, in terms of public interest and mobilisation, already to decline.

There was more success with some other, special laws that organized public deliberation further enhancing local citizens' right to be informed about (or even appeal against) new building projects, urban development and planning, environmental impact assessments and environmental projects concerning their district. These new procedures and possibilities, however, unfortunately met in many cases the negative aspects of an individualistic and clientelistic political culture that miss-used new procedures and possibilities in order to block several development or planning projects.

Another participatory initiative of the eighties that proved to be important from a future perspective has been the establishment of indirectly elected prefectural councils ("nomarchiako symvoulio") in 1982, consisting of representatives of state administration, trade unions, municipalities, chambers of commerce, employers' unions and some other interest groups. These councils intended to democratize deconcentrated state administration. Furthermore, this new institution opened new career paths for local party officials, by-passing the traditional dominance of local MP's at the level of the "nomos" ("department"), where the main geographical sub-division of the state and the parliamentary constituency overlapped. Development planning comprised the most important competence of these councils, who

concentrated not only decisional and planning, but also consultative responsibilities. In this way, cooperation through different sectors and levels of public and private action was expected to be enhanced. Furthermore, this new institution was supposed to prepare the “municipalisation” of the prefectures (establishment of a second tier of local government) which were realised twelve years later, in 1994.

Efforts to “municipalize” the prefectures (“nomarchies”) had recently failed twice (1986 and 1990), until finally in 1994 the 161-years-old state institution of the nomarchia was transformed into a second tier of local government. Thus, the so-called “Prefectural Self-Governments” (PSG’s) were established. Prefectures were “municipalised” as a whole, prefects (“nomarchs”) and prefectural councils were directly elected in October 1994, while funds, personnel and most of the responsibilities of the former state-prefectures were transferred in to the 50 PSG’s.

Whereas left-wing parties supported the reform, conservatives opposed, highlighting the risk to state unity and to efficiency. But this attempt failed since the socialist party enjoyed considerable political strength following its electoral triumph in 1993. Furthermore, state prefectures were in decline, since state administration was focused more on the 13 state Regions. Finally, another factor favouring this reform was that the new institution offered new opportunities to party workers as well as to the local society. More than 1500 prefectural councillors and 56 prefects and sub-prefects were to be directly elected, while local societies took over responsibilities traditionally reserved to the state (Hlepas, 2003). The long tradition of ‘behind the scenes’ localism (distribution of resources responding to local claims, occupation of posts responding to unspoken local quota etc.) could not withstand the rising demands of the new, self-confident Greek province that was seeking to institutionalize local power.

Since the state hardly exercised power at the prefectural level, time had come to change the character of the 13 Regions and transform them into multi-sectoral state bodies that would gather at a higher level most of decentralized state administration. The newly established second tier of local government, on the other hand, did not meet initial expectations and faced major difficulties. Most of the public servants in former state prefectures mistrusted clientelistic practices of elected officials and feared a downgrade in terms of career opportunities, salaries and pensions. Most of the old staff was, therefore, not willing to move to these new local governments and tried by all means to return to state administrative agencies. Then again, MP’s in the provinces perceived the emergence of new directly elected players (especially the directly elected prefects- the ‘*nomarchs*’) within their own constituency as a threat for their position within the system of political clientele. Also corporate interests and larger businesses were afraid that their influence on locally elected politicians wouldn’t be as strong as it had been within the hierarchical centralist structures of the state. Central bureaucracy and even an important part of the judiciary anticipated trends of paralyzing disintegration and the emergence of new local powers that would not be loyal to state hierarchies and order.

In sum, an unco-ordinated but convergent anti-reformist alliance attacked the new institutions. There were long controversies and litigations, while in several cases the courts decided that ‘major state responsibilities’ (i.e. physical planning, but also appointment of teachers in public schools etc.) could not be transferred to local government. Thus, the second tier lost, step by step, important fields of competence. The newly elected prefects gradually realized that most of their funds were coming from state grants, many of which were simply financing

concrete administrative tasks that the PSG's were obliged to carry out on behalf of the state. Supervising and control responsibilities, routine duties and a lot of red tape constituted most of the workload, while the ministries, several state-controlled entities and the regions took crucial policy-decisions directly affecting the prefectures. Especially the regions could maintain and further gain power over distribution, evaluation and monitoring European Operational Programmes.

Apart from protesting and litigating, directly elected prefects tried to claim 'their' part in the local political arena, not only by means of extensive use of the strong, historically rooted symbolism of their office, but also through unscrupulous clientelistic practices, sometimes even by breaking the law. Being locally elected leaders, maintaining strong and direct informal relations to citizens, the prefects could accumulate the kind of local political 'capital' that was necessary for their own access to decision makers at the central level, each one on behalf of his own local followers. In this respect the evolution of 'prefectural' local government in Greece seems to provide a good example of how local political representation degenerates with limited funds and policy options of its own (Hlepas, 2003).

An overall assessment of this reform period (1982-1995) would easily come to the conclusion that functional decentralization and new forms of participation promoting legitimacy have been established, whereas local government efficiency has rather been neglected. Reforms have been top-down elaborated and imposed by the national government and the ruling socialist party. Neither the municipalities, nor the civil society organizations and/or grassroots' movements had the capacities needed for a bottom-up process. At the same time, these new institutions of participation at all territorial levels, combined with decentralization, were able to create new arenas of politics and policies, new opportunities for careers and, above all, new possibilities for interest articulation that were particularly inviting for a wide middle class that had been excluded till 1981. Reformers took full advantage of several persistent cleavage systems that characterized the country since the civil war (1946-1949). In deed, the excluded left, the neglected rural areas, the under-represented lower and middle-classes, the demoralized civil/municipal servants as well as several local politicians joined the reform procedures, expecting more influence in the decision-making processes. On the other hand, the long-time ruling right parties, urban and bureaucratic elites, traditional state and socio-economic hierarchies, even a part of the new socialist clientele tried to block the reforms or some of their effects perceived as threats.

Reform procedures have been incrementally implemented (step by step), in face of legalistic traditions addressed to a non-weberian public administration that could not respond properly, while local capacities were formed along clientelistic and/or corporatist networks. An individualistic political culture along with fragmentation of sectoral and local institutions and interests impeded comprehensive reform implementation. It should be pointed out that some charismatic local political leaders (mainly mayors) took full advantage of the new windows of opportunities, thus articulating inclusive local policies that incorporated broader citizen participation and enacted local development. For these reasons, the reform landscape was a diverge one: While in some cases impressive performance could be registered, in other cases failure and stagnation created the impression that "nothing had changed". Furthermore, decentralization of state power was not combined to decentralization and internal democratization of political parties: They remained centralized, personalized, leader-dominated and hierarchical organizations, thus undermining the final outcome of decentralization.

3. HOW IMPORTANT IS LOCAL GOVERNMENT FOR THE NATIONS' SUCCESS? THE SHIFT TOWARDS EFFICIENCY (1996-2003)

The year 1996 marks important changes in the Greek party system: For the first time both major parties adopt new, open competitive procedures for the election of their leaders through wider electoral bodies. In the past, party leaders had been elected by the MP's of the respective party (Averof, Mitsotakis and Evert in Nea Dimokratia). In this way, election of party leaders remained a privilege of a closed circle of, more or less, strong party patrons and central, parliamentary political personnel. New, open procedures, where a wider electorate from all over the country and different groups of party members offered broader and stronger legitimacy to new leaders, the head of the socialist "modernizers" Kostas Simitis in PASOK and the unmarked newcomer of the conservatives, the young politician Kostas Karamanlis in Nea Demokratia. Through these procedures, both parties responded to problems of public acceptance and legitimacy. The issue of "renewal" was combined to "openness", since both parties were accused of being closed systems ruled by selfish party elites, of acting according to "spoils methods", of being unable to catch up European requirements (especially concerning the monetary union) and modernize the country.

The new party political arrangements went along with corresponding developments in local government associations: In the National Association of Municipalities ("KEDKE") as well as in the National Association of Prefectural Self-Governments ("ENAE") new, open and competitive procedures have been introduced for the election of their Chairmen and Boards. In this way, local government obtained a broadly legitimized leadership (for the first time, the Chairman of KEDKE was not the Mayor of Athens, but a Mayor from the province) that could enlarge and enrich, spaces, channels and methods of bargaining with central government and central political personnel.

These political changes created a new environment favoring the emergence of a new agenda for local government. Up to the mid-nineties local government reforms in Greece were rather focusing on decentralization of responsibilities, on political "healing" (Rigos, 1994) after a long period of authoritarian state rule, broadening legitimacy and fostering political stability. There were gains in consensus through participation broadening, as well as learning processes for societal and political actors. It was obvious, however, that efficiency would, sooner or later, become an important issue of the reform agenda.

The shift from legitimacy to efficiency during the late nineties was mainly due to Europeanization, fiscal stress and pressures deriving from Globalization. Furthermore, a relative failure of several participatory institutions and procedures could be stated. Malfunction of participation was connected to main features of socio-economic and political structures: Namely the fragmentation into sectoral interests, clientelistic relations, weakness of civil society, political polarization, lack of transparent bargaining and negotiation mores, an extremely individualistic political culture. More specifically, local societies proved to be rather weak (in terms of local political identity and social capital), trapped in traditional vertical networks of interest intermediation (connecting local actors with central decision making). In this way, bottom-up reformatory alliances proved hard to articulate and act, even after 1996.

Finally, by the late nineties, the state tried to cope with low efficiency in local government and promoted the most remarkable reform of this period, namely the "Capodistrias Plan" of amalgamations. In fact, the mandatory unification of municipalities in 1998, gives us a

unique, up to now, example of a radical reform through amalgamations in southern Europe: In 1997, a government plan for the re-organisation of the first tier of local government was approved, in its general principles, by an extraordinary congress of KEDKE, although strongest parties of the opposition resisted against it. The Ministry of the Interior used the map of previous units of inter-municipal cooperation (some 500 Units) as an official proposal to the local associations of municipalities. After a controversial bargaining process, the number of the new units climbed up to nearly 900. Finally, an official plan of Amalgamations has been approved by law.

Throughout reform procedures, patterns of conflict responded to cleavage systems. Modernization-oriented forces, encouraged through processes of Europeanization, could overcome traditionalist resistance to territorial restructuring mainly formed within the lines of conservative and communist parties, but also existing inside the ruling socialist party. Furthermore, center-periphery contrast has been expressed through the attitude of political personnel: while the strongest opposition parties were against the reform, the great majority of local authority leaders followed, because they were aware of weak efficiency within the existing structures. Furthermore, many local leaders had strong expectations for new political career paths within local government and beyond. It is characteristic that the two major metropolitan areas (Athens and Thessaloniki) have been excluded from territorial reform, since neither local leaders, nor the country's central political elite were willing to lose influence, favoring persistent and irrational fragmentation (more than 130 municipalities in Athens and 45 in Thessaloniki) despite of visible efficiency deficits (Getimis/Hlepas 2007).

The "Capodistrias-Plan" was not just a plan to merge municipalities, but also a national and regional development and works programme, with a time scope of five years (1997-2001). The new local authorities would obtain the financial resources and the qualified staff they needed in order to set up a "modern and effective" unit of local administration that would act as an "instrument and a pole of development" (easier taking advantage of EU funds) for its territory. In this way, the citizen would have more influence on local politics, since the new municipalities would develop a much wider range of activities ("participatory effect" of amalgamations). At the same time, continued representation of the old rural municipalities would be provided through local, directly elected community councils.

The total number of municipalities has been cut down by 80%, a percentage that would be even higher if the metropolitan areas of Athens and Thessaloniki, which were exempted from the amalgamations-plan and included more than 160 municipalities (and half of the country's total population), were not taken into account. The average population of the municipalities climbed up from about 1.600 to more than 11.000, while the average number of municipalities in each prefecture fell from about 120 (116,5) to a little bit more than 20 (20,66) units.

Quite a few of the new municipalities still seemed, however, to be too small to exercise several additional responsibilities (local police, minor harbours etc.) which have been afterwards transferred to the first tier of local government. Furthermore, the new municipalities gradually lost a great part of the newly hired and trained special staff that tried by all means to be removed to bigger cities. On the other hand, quite a few smaller villages (former municipalities) complained of being neglected by new municipalities favouring major settlements (in terms of infrastructure, water management etc.) and unwilling to internally delegate tasks and resources to the village boards.

Table 1

**Distribution of municipalities by orders of magnitude before (1996) and after (1999)
the implementation of the 'Capodistrias' Plan of amalgamations**

Population	Municipalities 1996	%	Municipalities 1999	%
Up to 300	2,043	35.1	33	3.2
Up to 500	1,180	20.2	14	1.3
Up to 1.000	1,357	23.3	46	4.5
Up to 2.000	672	11.5	93	9.0
Up to 5.000	337	5.8	380	36.8
Up to 10.000	102	1.8	281	27.2
Up to 20.000	48	0.9	95	9.2
Up to 50.000	54	0.9	56	5.4
Up to 100000	24	0.4	27	2.6
Up to 200000	6	0.1	6	0.6
Bigger	2	0.03	2	0.02
<i>Totals</i>	5,825	100	1.033	100

Source: Ministry of Interior, *Statistical Data*, Athens 2000.

Despite many difficulties and quite a few failures, there is no doubt that this major reform “Capodistrias” has already changed the landscape of local government in Greece. Within the new, larger municipalities, a new type of “more professional” mayors emerged that reflects the deep changes in demography, economy, communication and culture during the last decades that tend to “urbanise” styles and views of life in the Greek countryside. Local peculiarities seem to fade, even the so-called “geographic differentiation of political and voting behaviour”, that used be so strong, is declining in this small, further homogenising country. Nowadays, local communities in “rural” areas would expect much more from public administration than they used to in the past. Consequently, the amalgamations of the nineties were not simply the achievement of “radical modernisers” or the outcome of “scale dogmatism”, they also responded to an altering social environment. This could also offer an explanation for the fact that resistance against amalgamations has been (with few exceptions) less tough than expected, although the strongest political parties of the opposition resisted this territorial reform and tried to mobilise their supporters.

An overall assessment of this reform period (1996-2003) easily comes to the conclusion that the dominant reasons which invoked reforms during this period were Europeanization combined with efficiency prerogatives. These were the driving forces both for territorial reforms and a shift from a participatory orientation towards a managerial approach (e.g. gradual downgrading of regional councils in favor of managing authorities at the regional level during the nineties). Furthermore, several responsibilities previous given to the second tier of local government (1994) have been overtaken by regional state authorities, since a spirit of re-concentration based on effectiveness deficits in local government gradually overcame. The gradual shift towards a managerial approach within public administration responded not only to strong pressures from Europeanization and globalization but also to complying new articulations (aggregation) of entrepreneurial and sectoral interests. A non-

precedent aggregation took place through the obligatory amalgamations at the municipal level. Obligatory amalgamations of municipalities, combined with state restructuring at the regional level (since 1998) were expected to create economies of scale and offer new possibilities for modern policies and actions in public administration. The target of “modernization” has been, however, technocratically perceived, thus undermining legitimacy and the mobilization of civil society. Furthermore, persistent sectoral fragmentation undermined efforts for territorial and participatory interest and policy articulation. In this way, reforms could not activate the existing socio-political capacities and, moreover, create the necessary critical mass of new abilities that would cause a paradigm shift. Traditional hierarchies could, therefore, undermine the emerging dynamisms that proved to be too weak to transform the main features of the existing socio-political landscape.

4. WHAT IS THE ROLE OF LOCAL GOVERNMENT? NEO-CONSERVATIVE OPTIONS AND DILEMMAS (2004-2009)

Political landscape in Greece has drastically changed after the victory of the center-right party (April 2004) that put an end to a long period of socialist dominance (1981-1989, 1993-2004). Up to 2007, the new government seemed to be quite cautious, since it had opposed all territorial reforms (establishment of a second tier, amalgamations) promoted by socialist governments during the nineties. Within the governing party, neo-conservative elements seemed to convince even the liberal fraction to return to good old practices that characterized conservative administration policy during the fifties and the sixties: Nearly all important posts were given as spoils to cadres and friends of the governing party. Several minor changes have been promoted, following a legalistic and “proper-household” approach. Legal and fiscal controls on local government have been enlarged and stressed, while emphasis was given on “accurate administration” and the role of local politicians in personalizing and expressing “local society and local tradition”. Party politics and political culture of the new right in Greece was based on a symbolic perception of tradition as the backbone of social cohesion, while it was neglecting (if not denying) aspects of re-distribution and active citizen participation. On the other hand, government promoted Public-Private partnerships and supported privatization of municipal services.

Things seemed to change, right after the new victory of the center-right party in September 2007. Some leaders of the governing party were convinced that territorial reform would then be possible and necessary, in order to respond to prerogatives set by European Policies during the Fourth Programmatic period and the need to “absorb” faster and in a much more efficient way the available funds. After all, enlargement of EU and strong growth of Greek economy during the previous decade meant that it would probably to be the “last chance” for Greece, to take advantage of generous European funding. In face of these perspectives, the creation of 6 major “Programmatic Supra-Regions” has been promoted and an even more centralistic and technocratic system for the management of the corresponding European funds has been created. Pressures for territorial re-scaling can also be related to bigger business interests and some other influential social or/and political actors that prefer to act in bigger-scaled spaces. Small-scaled and multi-level structures are considered to create a territorially extremely complex environment where political intermediation, political decision and policy implementation are too slow and too costly. Citizen Participation is often perceived as a factor that increases costs and leads to heavy and irrational procedures. In quite a few cases, a

common and strong argument against smaller scale is not simply the demand of efficiency, but also concrete negative experiences with local communities, mayors, prefects and other local patrons that impeded or even blocked important development projects and strategic investments. Last, but not least, it is, meanwhile, a fact that newly constructed networks of transport and communication, combined to rapidly growing use of new IT-technologies have deeply changed social and economic geography of the country.

Right after its second victory in parliamentary elections (September 2007) and the following deep crisis in the socialist party, the center-right government felt strong enough to move towards a reform-friendlier attitude. A top-down reform procedure began, whereas focus on efficiency becomes stronger and legitimacy is neglected, participation is moreover discredited. Re-scaling of territorial politics is, once again, considered to be an appropriate answer to existing and easily perceivable deficits of effectiveness and responsiveness. Territorial re-scaling is two-fold: The first concerns state-controlled territorial structures, whereas the second refers to both tiers of local government. The reduction of the number of the Regions (from 13 to 6) is expected to catch-up with new objectives imposed by the Lisbon strategy referring to effectiveness, competitiveness and entrepreneurship. Amalgamation of municipalities (from 1034 down to 400) and prefectural local governments (from 50 down to 16) should overcome the existing fragmentation, facilitate state (especially fiscal) controls, create economies of scale and meet the strategic goals of the European Cohesion Policy.

Finally, however, this reform procedure collapsed in a short period, due not to unwillingness of opposition to support governmental options, but mainly to (mostly unspoken) resistance within the governing party. Many conservative patrons perceived territorial reforms as an existential risking of posts and influence. Once more, reform capacity of Greek conservative governments proved to be extremely weak. Moreover, a new vision of strong local democracy would contradict fundamental Greek conservative perception of local government as provider of services at local level ("state's little helper") and local representative of central state and political system. After all, no evidence could be presented that re-scaling per se would necessarily lead to more efficiency. Even the effects of the amalgamations during the nineties have not been properly and systematically assessed. Given the fact the Local Government in Greece is extremely poor on resources (less than 6% of GDP for both tiers), lacks of important taxing possibilities and remains highly dependent on state and European aid, re-scaling per se without a combined radical fiscal reform would not catch up with expectations.

In fact, a clear, whereas not verbally expressed policy option of the ruling majority is the restrain of local government from partnerships that are important for development policy making. State and centralized hierarchies seek to become the privileged partners of professional and entrepreneurial interests, while local government action is reduced to residual tasks. This option corresponds to traditional attitudes of conservative forces that prevailed during the fifties and sixties imposing rigid centralization combined with sectoralisation. It

is a trend that is boosted through the fact that nowadays Local Government is discredited even in the wider public, because of reproaches for miss-management, maladministration and corruption.

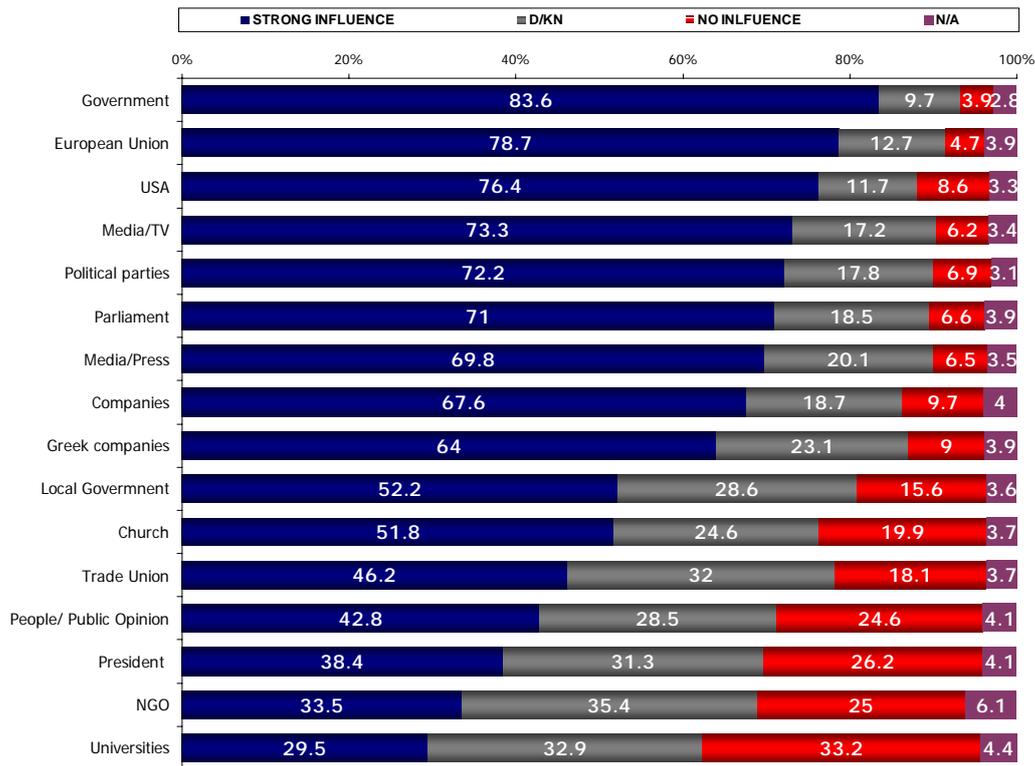
5. POSITIVE EXPECTATIONS TURNED INTO MISTRUST AND CRITICISM: CITIZEN'S VIEWS ON LOCAL GOVERNMENT

Strong and positive expectations that local government and decentralization would lead to democratization and better public services at the local level have not been fulfilled. Democratization at the local level has partly been endorsed through the creation of new participatory institutions, devolution of power and responsibilities and – especially – the establishment of a second tier. New institutions and new arenas of power have been, however, colonized by centralistic and hierarchical political parties, discouraging wider participation and controlling most of selection procedures for candidates at the local level (s. following Chapter). Considering local public services the final outcome was really frustrating. While access to decision makers and services became easier for the citizen (s. below), public opinion is strongly disappointed about maladministration, corruption and partisanship of local authorities.

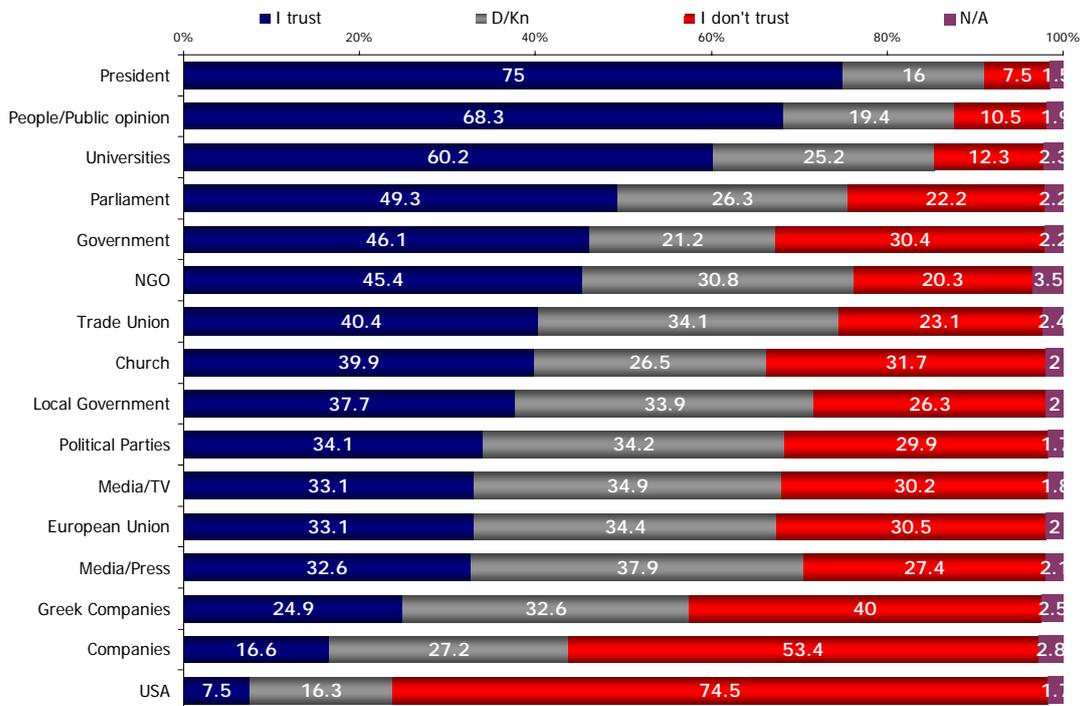
In deed, several opinion polls show that local government is considered as the closest public institution to the citizen, but also an institution bearing characteristics of corruption and discriminating practices. More specifically, according to a series of pan-hellenic surveys (KEDKE/Chadjipantelis, 2000-2002), it seems that, among various leaders, the Mayor is the one who “better represents” the citizens. His/her influence is particularly intense in citizens of a low or a medium educative level, of more than 50 years old and in peripheral regions. Next to local bishops and municipal councillors, the Prefect is considered to be closer to the citizens, having a strong in residence cities of Prefectures as well as in rural regions.

Concerning attitude of local authorities, citizens claim that administrative practice and decision making strongly take into account political and personal affiliations, while other citizens are being discriminated. Issues of routine municipal tasks seem to be of particular importance to the citizens, since they immediately concern them and their life quality. Almost three quarters of the citizens agree that we should “begin from small daily matters”. Two thirds of citizens claim that municipal works aim at show off and personal interests of local leaders, while they do not offer solutions to the real problems of their region. On the other hand, dissatisfaction about attitude of central Government towards Local Government is being expressed. Citizens' Majority believes central Government practices and decisions downgrade elected Mayors and Municipal councils (KEDKE/Chadjipantelis: 2000-2002).

Weakness of local government within Greek “still-centralism” (Hlepas, 2003) is clearly perceived by the citizens. In a younger survey (Institute for Local Government/MRB, 2005) concerning public assessment about the degree of influence of several institutions, local government is placed at the 10th place among 16 reported institutions/actors. The results are given in the following diagram.



According to the same survey, local government is taking the 9th place regarding the degree of confidence. Local government is placed just under the Church and little above the political parties as we observe from the following diagram.



This obvious deficiency of confidence is, more specifically, highlighted through citizens' statements that management of economic resources by local authorities is not transparent (64.6% agree while only 6.6% disagree). Public opinion is no better for state services, since 58.2% of citizens think degree of corruption to be the same in state and local authorities, whereas a worth mentioning percentage of 7.3% considers local government to be even more corrupt than the state. Public opinion, on the other hand, seems to be rather divided concerning the appropriate answer against corruption in Local Government: Nearly half of the citizens (49.8%) believe that state controls should be enlarged and intensified, while one out of three (34.9%) is opting for changes in structure and the operation of local government itself.

Annual reports of Greek Ombudsman seem to confirm citizen's critical views on local government. In deed, local authorities reach the highest or nearly highest scores of maladministration²⁴, while they often restrain from cooperation with the Ombudsman. This is due to several factors, as the lack of specialized, well trained personnel in local government, or the fact that too many frontline services belong to Local Government (thus easier exposed to citizens' complaints). Furthermore, it should be pointed out that too many elected officials in local government seem to misunderstand their democratic election as a free pass for selfish, partisan, clientelistic or even illegal practices. There are even cases, where local leaders try to justify their unscrupulous behaviour as a kind of local resistance against state bureaucrats and the "Athens-centric" governments.

6. UNDERMINING LOCAL DEMOCRACY PERSPECTIVES: PARTY RULE BEHIND THE SCENES

Electoral system is the exactly the same in both tiers of Local Government, while it seems to culminate the majoritarian option, combined with a dominant role for directly elected mayors/prefects: Every candidate for the post of mayor/prefect leads a list of candidates for all the seats of the Council, while the law explicitly prohibits candidates who are not on such a list from standing. National political parties officially are not allowed to stand for local elections but in fact they nominate local lists in all Prefectures and major municipalities, usually through decisions taken by their central organs. Municipalities and Prefectures are unitary constituencies, while three fifths of all seats in the Council belong to the list obtaining the majority and only two fifths to the opposition lists. While ensuring "governmental stability" and strong majority, the law is promoting fragmentation of opposition, since the remaining two fifths of Council seats are proportionally distributed to the opposition lists.

From 1975 to 2002, victory in the elections was achieved only by the absolute majority of all the valid ballot-papers, even at a second 'run-off' between the two lists that received the most votes during the first round. In 2006, a new Act limited the threshold for victory during the first "round" from 50%+1 down to 42% of valid ballots. This was an option that obviously favoured the two major parties of Greek political system, who became less motivated to foster

²⁴ In 2006, cases of maladministration were registered mainly for municipalities (20.66%), prefectures (8.98%), Regions (12.08%), the Social Security Organization (6.19%), the Cross-Disciplinary Organization for the Recognition of Academic and Information Technology Diplomas (previously DIKATSA) (5.15%), the Ministry of Economy and Finance (4.74%) and the Ministry of Public Order (4.41%). The most important forms of maladministration were: exceeding time limits or processing citizens' requests and applications, denying information to citizens on their rights and respective obligations, infringement of law. (http://www.synigoros.gr/reports/SYN_AGGL_2006.pdf p.10)

coalitions with minor parties at the local level. In fact, during the last municipal and prefectural elections in 2006, candidatures of party coalitions were obviously less common than in previous elections. The dominance of “two-party” system and “pendulum democracy” at the local level (Hendriks, 2006) were thus further enhanced.

These two parties select their favour candidates, following various nomination processes (mostly depending on the size of the local authority), mostly controlled by central party organs. We distinguish the elections in second tier (prefecture) elections in first tier (municipality). Although voting criteria of citizens are reported be the same in both tiers²⁵, it is considered that elections for the second tier explicitly reflect party competition and influence. Throughout the three previous elections for the second tier (1998, 2002 and 2006), independent candidates reached a low percentage of votes (7.23% in 1998, 8.30% in 2002). It is worth mentioning that in 2006 elections this percentage, given the new electoral system (s. above), fell down to 1.96%.

On the other hand, municipality elections have discrete local characteristics. If we calculate first round votes for candidates explicitly nominated by the parties in 2002, independent candidates seem to attract an impressive percentage of 44.41% of valid ballots. In the elections of 2006 the corresponding percentage reached 50.34%. Almost one out of two citizens seems to have voted an “independent” (not explicitly nominated) candidate for mayor. However, if unofficial party support/affiliation are taken into account (estimated), the picture becomes quite different and the percentage of really independent mayors falls down to cca. 5% (s. table).

Table 2

Official and Unofficial party support/affiliation in municipal elections

Support	2002			2006		
	VOTES	elected ²⁶	Estimate	VOTES	elected	Estimate
PASOK	20.31%	79	464	18.56%	64	477
ND	28.84%	79	451	26.03%	87	463
KKE (Communist)	1.60%	7	24	0.88%	4	18
SYN/SYRIZA (Left)	2.41%	14	36	1.84%	9	23
INDEPENDENT	44.41%	845	44	50.34%	864	53
OTHER	2.43%	7		2.32%	5	

Source: *Hadjipantelis/Hlepas: 2009.*

If we further analyze votes, explicit party support/affiliation seems to strongly depend on size of Municipality. In the following table, corresponding percentages of votes are presented, according to support scheme, in four different categories. In the first category, (above 20.000 votes) percentage of “independent” candidates falls down to 6.7%. In the second category (10.000-20,000 votes) the corresponding percentage is 22.4%. In municipalities were 5.000-10.000 votes were counted, this percentage becomes 72.4%, while in municipalities below 5.000 votes there is not a single candidate list officially nominated/supported by any party. It appears that the declared party support (nomination) is absolutely connected to the size of municipality. The smaller the size of the municipality, the smaller becomes the probability of

²⁵ Local Government in the 21th century (Theodore Chadjipadelis, 2002, Aristoteles University of Thessaloniki (AUTH), KEDKE).

²⁶ Estimates according to PASOK.

nomination. We point out that small municipalities are mostly located in a major distance from important decision centers. In these municipalities, strong local networks are developed, usually corresponding to internal party wings or/and networks. In many cases local lists and candidates depend on support from local executives and strong local MP's of parties. While candidatures for prefectures and important cities constitute a domain of central party organs (mostly of the Party leader himself), minor municipalities remain a playground for local party leaders who do not seek central party support, fostering catch-all local alliances, along the lines of personal clientele networks.

In Local Government elections, party support does not necessarily mean exclusive party lists. The head of the list reflects the political affiliation of the list, without necessarily characterizing the list as a whole. Concerning the model of party electoral-mechanism, municipal lists are usually formed in a multi-party sense. Therefore, many councillors, in between elections period, can act free of party-obligations. In some cases of – particularly smaller – Municipalities, municipal lists take the form of cartel that manages the municipal assets. This sense is reflected also in opinions of citizens, as it was reported above.

The main problem for the elected mayors is the lack of a rational system of political priorities. Almost all mayors consider as their main priority the general services for the people while only a small percentage (5%) focus on urban services. Relation to the government constitutes a major priority for 20% of mayors, while 15% regard as a top priority the modernization of their local authority (KEDKE/Hadjipantelis: 2005).

Greek party system remains hierarchical and centralized. While central party organs do control political procedures at the second tier and in major cities, smaller municipalities are left to local party patrons. Legal and party arrangements disable accountability of party hierarchies for attitude and action of locally elected party members and nominees. This lack of party accountability reflects wider deficiencies in accountability characterizing Greek political system. Given the fact that party internal democracy is still an unsatisfied demand (even though important steps have been made), local democracy cannot be realized. This interaction seems to remain unrealized even in party reform programs and proposals (e.g. PASOK declarations in 2009) concerning the enhancement of local government and local democracy.

	SUPPORT (TOTAL of VOTES [A] of ROUND)	TOTAL	PERCENTAGE	>20000 (VOTES)	>20000 (PERCENTAGE)	10000 to 20000 (VOTES)	10000 to 20000 (PERCENTAGE)	5000-10000 (VOTES)	5000-10000 (PERCENTAGE)	<5000 (VOTES)	<5000 (PERCENTAGE)
0	Independent	3296400	48.88%	154852	6.69%	250269	22.41%	1109075	72.38%	1782204	100.00%
1	Candidate of PASOK	1018441	15.10%	719830	31.12%	233757	20.93%	64854	4.23%	0	0.00%
2	Candidate of ND	1323965	19.63%	749491	32.40%	354225	31.72%	220249	14.37%	0	0.00%
6	Candidate of SYRIZA	1886	0.03%	1886	0.08%	0	0.00%	0	0.00%	0	0.00%
7	Candidate PASOK /SYRIZA.	96976	1.44%	46612	2.02%	34535	3.09%	15829	1.03%	0	0.00%
10	Candidate of SYRIZA/PASOK.	47995	0.71%	22540	0.97%	17186	1.54%	8269	0.54%	0	0.00%
16	Independent PASOK without party support.	79080	1.17%	43163	1.87%	22455	2.01%	13462	0.88%	0	0.00%
17	Independent N.D without party support.	229662	3.41%	95932	4.15%	89724	8.03%	44006	2.87%	0	0.00%
18	Independent: PASOK/SYRIZA.	13945	0.21%	12243	0.53%	0	0.00%	1702	0.11%	0	0.00%
19	Independent that is supported from: N.D. /SYRIZA	4416	0.07%	0	0.00%	4416	0.40%	0	0.00%	0	0.00%
28	Independent that is supported from: SYRIZA	46341	0.69%	34710	1.50%	6857	0.61%	4774	0.31%	0	0.00%
41	Independent that is supported from: ND.	79118	1.17%	79118	3.42%	0	0.00%	0	0.00%	0	0.00%
56	Candidate ND and SYN.	7309	0.11%	0	0.00%	0	0.00%	7309	0.48%	0	0.00%
83	Independent PASOK that is supported from SYN.	20190	0.30%	16018	0.69%	4172	0.37%	0	0.00%	0	0.00%
100	Candidate L.A.O.S (Right)	12371	0.18%	12371	0.53%	0	0.00%	0	0.00%	0	0.00%
101	Independent that is supported from: L.A.O.S	760	0.01%	0	0.00%	760	0.07%	0	0.00%	0	0.00%
102	Candidate KKE and other radical forces	313177	4.64%	207386	8.97%	74202	6.64%	31589	2.06%	0	0.00%
103	Candidate SYRIZA	139894	2.07%	109987	4.76%	20256	1.81%	9651	0.63%	0	0.00%
104	Independent N.D that is supported from L.A.O.S	12347	0.18%	6829	0.30%	3991	0.36%	1527	0.10%	0	0.00%
		6744273	100.00%	2312968	100.00%	1116805	100.00%	1532296	100.00%	1782204	100.00%
	NUMBER LOCAL AUTHORITY (PERCENTAGE OF VOTES IN THE TOTAL)	1034		55	34.30%	81	16.56%	223	22.72%	675	26.43%

7. FISCAL CRISIS AS THE STARTING POINT OF A NEW REFORM ERA? THE “KALLIKRATIS” PLAN

After impressive victory in elections of 2009, a strong socialist government with an ambitious reform program had to face an unprecedented financial crisis. The new ruling majority decided to use radical local government reform as remedy against the crisis. A new, thoroughly prepared reform plan named ‘Kallikratis’, has been exposed to public consultation (January 2010) and a new law, radically changing structure and operation of local governance has been adopted (May 2010). The ‘Kallikratis’ Plan promotes compulsory merging of local government units, leading to the reduction the number of municipalities from 1034 to 325, while the second tier has been ‘moved’ up to the regional level (13 regional local authorities instead of the former 50 PSGs). At the same time, deconcentrated state administration has been re-structured at an even higher level, including 7 units. This new structure of state and local government, with fewer entities, conforms more closely to the Lisbon Treaty principles.

The new reform is the first one including both tiers of local government and deconcentrated state authorities. Furthermore, territorial consolidation is combined to extensive decentralization of responsibilities and resources. Special emphasis is being given to the targets of efficiency and economies of scale, modern management of human and financial resources, improvement of service and professional quality. Furthermore, this reform is following basic principles and objectives of new public management, such as systematic control and overall supervision, accountability and transparency. Simplification of structures (much less units at three levels of governance) is expected to increase multi-level and cross-departmental cooperation that will lead to better coordination and effective steering.

More accountability, transparency and greater participation of the citizens in local issues are expected to ensure a high level of quality management. To this end, ‘Kallikratis’ stipulates that local government authorities are obliged to make public all their decisions on the internet. The establishment of the Local Ombudsman (‘Sibarastatis’) to support citizen and local enterprises in every municipality is an attempt to reduce mismanagement and eliminate sources of corruption, as this institution will examine relevant allegations. A Consultation Committee will be also created in municipalities with more than 10,000 residents and this will facilitate a more efficient allocation of municipal resources according to local needs. Among the new institutions that ‘Kallikratis’ Plan is going to create is the Executive Committee to monitor the implementation of local policies, the Financial Committee, which will be responsible for the planning and control of the economic functioning of the municipality, as well as a Council for the integration of immigrants and last but not least a Committee for the quality of life (in municipalities with more than 10,000 inhabitants). Citizen participation is also enhanced through stronger district councils, gaining new responsibilities and additional funds. For the first time, legal immigrants from non-EU countries will obtain voting rights in municipalities.

Implementation of this ambitious reform will begin after next local (municipal and regional) election in November 2010. A main challenge is to foster the necessary reformatory consensus across party, territorial and sector lines. Restructuring could offer windows of opportunity for the implementation of New Public Management and the introduction of modern governance tools in the Greek sector, following a bottom-up process. In this way, local government reform could pave the way for the modernization of state administration.

Scope and strategic priorities of the running reform procedure seem to attend to tackle deficiencies left from previous reforms. Worth mentioning are major reform concerns on coping with efficiency, coordination/steering, transparency, control and accountability deficits. However, the final outcome of this new, overall, thorough and ambitious reform process is an open game, given the acute fiscal crisis and the question of consensus building.

CONCLUSIONS

Right after the fall of the dictatorship, democratization and openness of Greek state used to be a major public claim. Local government has been regarded as an important political arena and a key figure, towards democratization. Devolution of power and responsibilities, citizens' participation and the incorporation of excluded groups and neglected areas were obviously deemed as more important during this stabilizing and healing period of the Third Republic.

Socialist governments from 1982 till 1995 drew on Local Government as an instrument of political mobilization and social integration. New participatory institutions were established and important first steps towards decentralization of functions and power have been made, while efficiency of local authorities and transparency of management have been neglected. Dynamics of democratization did not, however, substantially affect political parties, who remained centralized, personalized, leader-dominated and hierarchical organizations, often suppressing party internal dissidents and opposition.

In 1996 both major parties initiate new procedures for the election of their leaders through wider electoral bodies, a wide consensus on Europeanization is fostered and a new era seems to begin. Concerning local government, there is a shift towards stronger decentralization, while open and democratic procedures provide new capacities to national associations of local authorities. A new emphasis on efficiency emerged that led to territorial reforms and new forms and methods of municipal action. These developments seemed to lead towards the enhancement of local democracy. However, strong resistance against decentralization reforms emerged. Several pressure groups, including professional organizations, sectoral interests, media, national businesses, party and state hierarchies tried to block or slow down reform procedures. On the other hand local societies proved to be rather weak (in terms of local political identity and social capital), trapped in traditional vertical networks of interest intermediation (connecting local actors with central decision making). In this way, reformatory alliances proved hard to articulate and act.

Since 2004, conservative governments focused on introducing market criteria and interests in local government, without being able to catch their targets of marketization. They have been much more active and successful in introducing several new mechanisms and institutions of state (mostly legal and fiscal) controls over local government action and performance. Right after the second electoral victory in 2007, conservative governments proposed a reform agenda, including amalgamations of both tiers of local government. The top-down reform procedure that was adopted, collapsed in a short period, due to resistance within the governing party and, moreover, the fundamental conservative perception of local government as a provider of services at local level and local representative of central state and political system.

Citizens' views on local government reveal proximity to elected officials and a relatively high level of trust, compared to central political personnel and institutions. At the same time, local government has been the target of public criticism, due to the lack of transparency, features of maladministration and tolerance to corruption. Local leaders, on the other hand, are characterized through a perception of intermediary role as the core of their political task. Local political personnel did not prove to be able to develop an independent system of local policy priorities.

Perspectives of local government reform in Greece are, furthermore, undermined through attitude of political parties to local government and the lack of party internal democracy. Open and transparent local selection procedures within local party organizations are being avoided or falsified. These arrangements disable accountability of party hierarchies for attitude and action of locally elected party members and nominees. This lack of party accountability reflects wider deficiencies in accountability characterizing Greek political system.

Given the fact that party internal democracy and decentralization is still an unsatisfied demand (even though important steps have been made), local democracy cannot be realized. This interaction seems to remain unrealized in party reform programs and proposals concerning the enhancement of local government and local democracy.

Scope and strategic priorities of the running reform procedure ("Kallikrates" project) deem to attend to tackle deficiencies left from previous reforms. However, the final outcome of this new, overall, thorough and ambitious reform process is an open game, given the acute fiscal crisis and the question of consensus building.

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REFORMS IN THE BULGARIAN PUBLIC ADMINISTRATION

Margarita SHIVERGUEVA,
New Bulgarian University
Bulgaria
Ivan NACHEV
New Bulgarian University
Bulgaria

Abstract

The analysis provided herewith presents the state of the administration on central, regional and local level and its preparedness to work in the context of EU membership. The analysis depicts the basic tendencies, challenges and prospects in the modernisation of the state administration for the period between 2007 and 2013.

The paper focus is oriented to transparency and integrity of the state administration including anticorruption policy, different forms of public-private partnerships and professionalization of the civil service.

1. TRANSPARENCY AND INTEGRITY OF THE STATE ADMINISTRATION

The main trends in the development of the state administration are related to strengthening the **principles of transparency and accountability** as a condition for good governance. Measures for improving the transparency, accountability and integrity of the activity of the state administration have been provided for in the Strategy for Transparent Management and for Preventing and Counteracting Corruption, 2006-2008, as well as in the Programme for Transparency in the Activities of the State Administration and High-Level Officials (Senior Civil Servants), 2006.²⁷

According to a study conducted among state administration employees, there has been a considerable change in their opinion with respect to the conducted reforms and the implementation of the Programme for Transparency. **The measures related to achieving openness and transparency** of the administration's activities have received **exceptionally high levels of support (80%)**²⁸.

The means and tools for achieving greater transparency and better accountability of the administration are many and from different spheres. Those like the Administrative Register and the annual reports on the state of the administration have already been mentioned while others are related to the area of service delivery, e-Governance or human resource management in the administration.

The publication of the **declarations on the property and income of senior level officials** on the Internet is another tool for achieving greater transparency and accountability. After January 2007²⁹ senior level officials are required to submit their declarations by 30 April of the calendar year, with an additional term of one month for correcting mistakes. Stricter sanctions for those refusing to submit declarations or submit incorrect information have been introduced.

The mechanism for checking the declarations on the property and income of senior level officials involves a comparison of the submitted information with that contained in the registers of other bodies.³⁰ The National Audit Office is responsible for coordinating the declarations, checking them and imposing sanctions in case of identified violations. The checks should be completed by 31 October of the calendar year. The incorrect declarations are forwarded to the National Revenue Agency for further control. The declarations and all relevant documents are published on the National Audit Office website.

By 31 March of the calendar year all civil servants are also obliged to declare to the appointing bodies their property and potential conflicts of interest. For the period from April 2006 to March 2007 the "Inspectorate for the State Administration" Directorate within the

²⁷ See Annex 3.

²⁸ Evaluative survey carried out by "Transparency International" Association among state administration employees in the period 15 and 30.08.2006 on the implementation of the transparency and accountability principles (page 3).

²⁹ Law Amending and Supplementing the Law on Publicising the Property of the Senior Civil Servants prom. SG No 73/05.09.2006.

³⁰ Such as the Ministry of Finance, the Ministry of Transport, the Ministry of Agriculture and Forestry, the Ministry of Regional Development and Public Works.

MSAAR has identified 74 cases of non-submitted property declarations³¹ and 63 non-submitted declarations for conflict of interest³² out of 1,426 checked civil servants' files.

The report on the implementation of the Programme for Transparency in the Activity of the State Administration and High-Level Officials (Senior civil servants)³³ shows that following mechanisms for feedback and submission of signals for corruption are among the basic **transparency and accountability tools** in the different administrative structures: **Internet addresses and hot telephone lines** (82% of the administrative structures), **mailboxes for submitting opinions, assessments and recommendations** (78%) and **ethical codes** (78%). The least used are the questionnaires for administrative services users (46% of the administrative structures).

The Law on the Access to Public Information (LAPI) contributes to greater transparency and accountability. The administrative capacity for implementing LAPI has been gradually developing³⁴. Internal rules for working under LAPI have been established within almost half of all administrations and explanatory information for the citizens has been developed. However, only 165 (out of 551) administrative structures can receive applications for access to information electronically. The highly important trainings of state administration employees on implementing LAPI have been decreasing in number since 2004.

The administration is undertaking more and more measures to give **maximum publicity** to its activities, including seminars with journalists, regular press conferences, keeping updated information on the websites of ministries and agencies, organising information campaigns, developing communication strategies. Official websites have been created for 442 (out of 551) administrative structures (104 structures from the central administration and 338 (from the regional and municipal administrations); 16 structures use other websites.

Although feedback mechanisms have been developed, the low level of public awareness leads to their ineffectiveness. The lack of thorough analysis of the received allegations, opinions and recommendations is still a weakness.

It is important to improve the possibilities for access to public information by users, and to this end, the capacity for providing information needs to be strengthened (by reviewing the adequacy of the applied internal rules, by implementing them in more administrations, by increasing the number of trainings for their servants working under LAPI, as well as by improving the possibilities for receiving electronic applications).

Besides providing public information under LAPI, the trend of giving maximum publicity to the administration's activities should continue.

1.1. *Anticorruption policy*

The basic measure of the corruption environment is the **index prepared annually by Transparency International**. For the period 1998-2008, studies in Bulgaria show slow but steady increase in its values.

The Accession of Bulgaria to the EU has been accompanied by a series of specific complementary measures for preventing or rectifying shortcomings in several problem

³¹ Civil Servant Act (Art 29).

³² Civil Servant Act (Art. 29a, para 1).

³³ <http://www.mdaar.government.bg/programmes.php>

³⁴ Report on the State of the Administration, 2006, page 144 et seq., http://www.mdaar.government.bg/docs/Annual%20Report%20%202006_26.07.2007.pdf

areas³⁵. **A mechanism for cooperation on and monitoring of progress³⁶** in the fields of judiciary reform and **fight against corruption** and organised crime **has been created**. This is an indicator of the exceptional importance of the measures undertaken and that should be undertaken for preventing and counteracting to corruption.

According to a survey conducted among the users of administrative services³⁷, the **personal experience of citizens** shows relatively low levels of corruption pressure on the part of the civil servants. The majority of the surveyed persons indicate that they have not been offered the illegal hastening of an administrative procedure and only 2% are sure that they have been in a situation of corruption pressure. The highest levels of scepticism about the integrity of administration employees have been observed among company owners and associates.

The new **Strategy for transparent management, prevention of and counteracting corruption 2006-2008** builds on the gained experience and specifies priority areas for counteracting and preventing corruption at senior management levels. According to the report on the implementation of the Strategy for 2006, 94 out of 121 measures from the 2006 Action Plan have been implemented and 27 are in the process of implementation and are expected to be completed by the mid-2007.

A **Coordination Council of the Anticorruption Commissions** on central level has been functioning since April 2006 – the commissions for combating corruption under the Supreme Judicial Council (SJC), the National Assembly and the Council of Ministers. The Council meets on a monthly basis on strategic and operational issues, including on specific issues. The main tasks of the Coordination Council are connected with: information exchange, coordination and harmonisation of activities; developing and conducting joint initiatives; specifying priority fields and forms of interaction in the fight against corruption, ascertaining the presence of corruption practices based on submitted allegations and conducting checks depending on the competences.

Regional Public Councils for Counteracting Corruption have been functioning in all regional administrations. The greater part of the council chairmen are Regional Governors; the council members include representatives of the Prosecutor's Office of the Republic of Bulgaria (hereinafter referred to as the Prosecutor's Office), the Investigation Office, the Police, the courts, the Revenue Agency, Customs, the health and education sector, NGOs, media, etc. All regional public councils have adopted Programmes for Implementing the Strategy for Transparent Management and Counteracting Corruption. The allegations for corruption submitted to the regional administrations for the period October 2006 – March 2007 are 113, out of which 104 have been reviewed and the others are in the process of review or are anonymous.

Since 2004, **trainings** on preventing and counteracting corruption have been carried out for the representatives of the state administration. In 2006, 25.7% of the whole administration passed trainings on the implementation of the Code of Conduct for the State Administration.

³⁵ Aviation safety, food safety, agricultural funds and reform in judiciary, fight against corruption and organized crime.

³⁶ Decision of the Commission from December 13, 2006 for creating a mechanism for cooperation and monitoring the progress of Bulgaria in specific important fields of the reform in judiciary, and fight against corruption and organized crime, EC (2006/929), OB L 354/56, 14.12.2006.

³⁷ Inquiry among the users of administrative services conducted by Transparency International in the period 15-30 November 2006 (page 3).

A hundred percent of the inspectorates and the members of the disciplinary councils have passed trainings on the functions they perform and 100% of the Senior civil servants have received training in administration-related ethics. A series of other specialised trainings have also been carried out in the field of transparency and anticorruption policy at central, regional and municipal level³⁸. In 2006, in the framework of the Strategy for Transparent Management, and Preventing and Counteracting Corruption, a MSAAR project “Counteracting State Administration Corruption by Training its Servants” was implemented by the “Inspectorate for the State Administration” Directorate and IPAEI. Under the project, materials for self-training on preventing and counteracting corruption were developed. Distance courses on transparency and integrity of civil servants were conducted – 50,814 servants successfully passed the training test; 6 seminar-discussions and a workshop with the Prosecutor’s Office bodies to discuss the possibilities to develop an adequate system for protecting the persons submitting corruption signals were conducted; pilot trainings for the employees working in high corruption risk spheres, as well as trainings of governors, mayors, deputy mayors and senior civil servants were carried out.

With respect to popularising the **Ethical Code for Civil Servants Conduct**, in 2006, **Standards for Administrative Ethics**³⁹ have been disseminated in all administrative structures. An **Ethical Code for the Senior civil servants in the Executive power** is also available.

The biggest number of corruption signals has been submitted to the central administration – 76.2%; to the regional administration – 2.5% and to the municipal administration – 21.3%⁴⁰.

The measures undertaken at the **border crossing points** are a good example of corruption counteraction and prevention thanks to which considerable progress has been achieved: control and imposing of sanctions, zero tolerance, checks on signals and also random checks, installed video cameras, use of information brochures, systematic training of the employees, psychological inquiries, publicity for the purpose of prevention given to identified cases of corruption, implementation of a system of “single receipt” payment and a system of random distribution of shifts.⁴¹

Civil society is an active participant in the assessment of the government’s anticorruption policy. This activity has become a priority for a number of Bulgarian NGOs. Many public anticorruption debates have been initiated with the cooperation of the media. Monitoring of the administration has been performed through partnerships between civil associations, the business sector and NGOs on the one hand, and on the other – the state institutions. An example of such an initiative is **Coalition 2000**. Its activities include the development of an Action Plan for combating corruption, a monitoring system, the organisation of anticorruption information and education campaigns and the production of annual Reports assessing corruption in the country.

³⁸ Report on the State of the Administration 2006, page 156,

http://www.mdaar.government.bg/docs/Annual%20Report%20%202006_26.07.2007.pdf

³⁹ Report on the Transparency Programme for the State Administration and the High-Level State Officials Activity, until December 2006, p. 14.

<http://www.mdaar.government.bg/lucidity.php>

⁴⁰ The feedback mechanisms are described above in V., 3.1. Transparency and accountability.

⁴¹ Report of the European Commission on the progress of Bulgaria in the implementation of the accompanying measures after accession 27.06.2007, p. 19,

<http://www.evropa.bg/bg/del/info-pad/press-releases/doklad.html>

One project for enhancing the role of civil society in the fight against corruption⁴² has been implemented under the **PHARE Programme** for civil society development. Another project under the **Transition Facility** called “**Civil Society Development**” is envisaged for 2008-2010. It will aim at strengthening civil society control and establish active cooperation between civil society and the administration in the process of developing and implementing effective anticorruption policies and tools. The beneficiaries under the project will be the Bulgarian NGOs.

There is still a clear necessity for optimising the work of the different anticorruption units, especially with respect to the introduction of a clear separation of responsibilities better coordination, management style and decision-making process.

With a view to the increased number of corruption allegations, the trainings and seminars for the prevention of corruption should continue and control should be strengthened, including regarding the enforcement of the Ethical Code. The mechanisms for submitting corruption allegations and obtaining feedback should be increased and better publicized in society. The measures undertaken so far to increase transparency should be popularised. It is also important to conduct regular monitoring of the implementation of the Strategy for Transparent Management, Prevention and Counteracting to Corruption. Corruption prevention practices that have proven to be successful should be replicated in more administrations, and the participation of civil society structures in this sphere should be encouraged.

Apart from the policy for achieving greater transparency and accountability, and control of the activity of the administration⁴³, the policy for counteracting corruption also includes a wider circle of activities in other areas, such as hiring civil servants on a competitive basis, conducting studies in the anticorruption field, good state service management, development of e-Government, full implementation of the one-stop-shop concept, implementation of a system for integrating the payments called “single receipt” at the border crossing points etc, etc.

For the complete success of the anticorruption policy, it is of utmost importance to continue to use and strengthen this “integrated approach”, whose purpose is not only to fight corruption but also to prevent it.

2.1.1. Internal control

The control of the administration’s activities is exceptionally important for ensuring its effectiveness as well as for counteracting and preventing corruption.

As regards **internal control**, all ministries have created **inspectors which are directly subordinated to the respective minister**⁴⁴. Their independence is regulated by law. The inspectors’ functions include: analysis of the effectiveness of the activity of the administration that should be used for streamlining the structure of the administrations; control on compliance with the internal rules for the organisation of the administrative work, controls of the signals, appeals and claims of illegal or inappropriate activities or inactivity of the administrative officials⁴⁵. The inspectors within the ministries perform also administrative control on the activities of the secondary budget spenders. Inspectors can be created in those administrations that are not covered by this control as well as in those that have territorial units.

⁴² See below VI. Analysis of the capacity of the civil society structures.

⁴³ See below.

⁴⁴ Law on Administration (Art. 46).

⁴⁵ Law on Administration (Art. 46); (see Annex No 3).

In 2006, 43 administrations announced that **internal inspectorates had been created** within the framework of their structure (34 in the central, 1 in the regional and 8 in the municipal administration). In 33.6% of the administrative structures, the functions are being performed by a staff member, appointed by the manager; and in the rest of the cases – by other competent bodies or committees established for that purpose.

Only 24% of the inspectorates publicise their activity – on a website, through periodical press conferences and reports. There is no unified system for announcing the overall results of the work of all the inspectorates. There are no uniform standards for their work and the rights and obligations of their staff must be unified in the rules of procedures of the administrations. The trainings of the inspectors are continuing.

A General Inspectorate within the administration of CoM has been created with the Law on Administration, It is directly subordinated to the Prime Minister. The **main functions** of the Inspectorate are: to support the organisation of activities for the implementation of state anticorruption policy as well as to perform analyses on the efficiency and effectiveness of state administration's activity related to the anticorruption policy; to coordinate and support the activity of the inspectorates; to examine, and when needed, to perform checks related to signals for conflict of interests, corruption and other violations of the bodies of the executive power and civil servants on managerial posts and to draft a report on the results; to analyse the reasons and conditions for identified violations and to propose measures for their elimination; to support the execution of the decisions of the Commission for Preventing and Counteracting Corruption. **In the execution of its functions** the General Inspectorate performs: control on the overall work of the administration and performs general and specialized checks assigned by the Prime Minister; checks and control on specific issues and cases based on an order of the Prime Minister.

Internal audit is another method of internal control on the activity of the administration. It plays an important role for the achievement of transparency and accountability through evaluation and improvement of the effectiveness of the processes for risk management, control and general management. The internal audit is performed by a specialised unit which exists in each administration. It audits all structures, programmes, activities and processes, including the spenders of EU funds and the lower level budget spenders in the organisation⁴⁶.

The legislation regulating the inspectorates' activity should be improved. A complete analysis aimed at identifying the problems of the inspectorates' activity is needed. Uniform standards for its work should be created and the publicity of its results should be improved (including the creation of an integrated system for announcing the results).

The analyses on the effectiveness of the administrations' activity performed by the inspectorates should be used in identifying measures for the optimisation of the administrative structures.

It is important to strengthen the coordination function of the General Inspectorate to improve the transparency, accountability and control on the inspectorates' activity.

The special role of the internal audit units for more effective and transparent governance and administrative activity has to be recognised, and their needs for capacity building have to be analysed and addressed.

⁴⁶ Law on Internal Audit in the Public Sector, (Art. 9); (see Annex No 3).

2.1.2. External control

External control is performed by the National Audit Office of the Republic of Bulgaria with the support of regional and local branches (6 territorial units and 28 offices all over Bulgaria). The National Audit Office performs financial control on all public bodies, including the local authorities, the resources from EU funds and programmes; checks all public procurement procedures and performs follow-up supervision⁴⁷. The audits are performed in accordance with the annual audit programme adopted by the National Audit Office. The results are regularly published on the Internet. Bulgaria has reported that since January 2007, six audits have started and eight audits should be completed by December 2007.

Another body for exercising external control is the **Public Financial Inspection Agency (PFIA)**. Its function is to protect the public financial interests through: performing financial inspections on legislative compliance; revealing damages inflicted on property and start administrative criminal proceedings against the culpable official upon legal grounds.

With a view to the importance of external control for the achievement of results by the different administrative structures, and in order to ensure greater transparency and prevention of corruption, it is important to analyse the need for strengthening the capacity of the respective control institutions and structures, and to undertake the necessary measures. In this regard, the specialised trainings as well as the sharing of European best practices are very important. Attention should also be paid to achieving greater publicity of external control results.

2.2. The role of the Ombudsman

The Ombudsman of the Republic of Bulgaria is a supreme and independent constitutional body protecting the rights and freedoms of citizens. His activity is regulated by law.⁴⁸ A key priority of the overall policy of the Institution of the Ombudsman is the strengthening and the application of the right to good governance as well as the establishment of clear rules in the administrative practices of state and municipal bodies and administrations. The Ombudsman also pays special attention to: the rights of citizens in the healthcare system; human rights in the penal system; children's rights protection; equal opportunities for the disabled people, etc.

The Institution of the Ombudsman is functioning **properly**. The further strengthening of its administrative capacity is directed towards **strengthening the public image and authority of the Ombudsman as a defender of citizens' rights**.

All citizens can file a complaint or signal to the National Ombudsman in case his/her rights and freedoms have been violated by:

- State and municipal bodies and their administrations;
- Persons that have been assigned to deliver public services.

The Ombudsman reviews complaints and signals within the framework of a special out-of-court proceeding ending with an opinion on his part.

⁴⁷ Law on National Audit Office, (Art. 5); (see Annex No 3).

⁴⁸ Law on Ombudsman, (see Annex No 3).

In case an issue brought by a citizen has a pending proceeding, the Ombudsman cannot interfere nor represent the citizen in court. His intervention is admissible only if, for example, the settlement of a case has been delayed without justification or no access to the decisions of the court has been granted, etc.

The Ombudsman acts also at his own initiative in case were he considers that the necessary conditions for the protection of citizens' rights and freedoms have not been created. The Ombudsman initiated legal proceedings and announced his opinions, recommendations and proposals in a series of cases of high public interest.⁴⁹

The constitutional changes of March 2006⁵⁰ granted the Ombudsman the right to address the **Constitutional Court** in case he deems that any legal regulations infringe upon citizens' rights and freedoms. It is important to provide also additional possibilities and mechanisms which can guarantee the efficient intervention of the Ombudsman in cases of violation of citizens' rights. An essential element for guaranteeing the positive effect of the Ombudsman's activity is the good will of other organisations and the joint efforts to eliminate poor performance in the administration. Examples of good collaboration with other state institutions are the signing of cooperation protocols⁵¹ and the inclusion of the Ombudsman in the work of the Commission for Counteracting and Preventing Corruption with the Council of Ministers.

For the full implementation of the Ombudsman's power, his interaction with state institutions should be improved. Enhancing the specialised knowledge of the Ombudsman's experts will lead to more effective functioning of the institution.

The Ombudsman pays special attention to cooperation with civil society structures. The different NGOs, legal institutions, branch associations, employers' and trade union organisations, which represent special public interests, can provide specific information on negative practices and draw public attention to them. This will be implemented essentially through the establishment of **public advisory councils to the Ombudsman**. Several specific interactions of the Ombudsman with civil organisations and groups have already shown that this could increase citizens' involvement in the governance.

The publicity principle is a key method in the Ombudsman's work. He can influence the administration's work and engage public opinion to strengthen **good governance**. A Public Register has been created for the written and verbal complaints where all claimants can check the current state of their claim.

⁴⁹ Annual Report of the Ombudsman of Republic of Bulgaria, June 2005 – March 2006 (p. 29).

http://www.ombudsman.bg/annual_report.pdf

⁵⁰ Law on Amendments and Supplements to the Constitution of the Republic of Bulgaria (prom. SG, issue 27 of 31.03. 2006) – Third Amendment (§ 3); (see Annex No 3).

⁵¹ Annual Report of the Ombudsman of the Republic of Bulgaria, June 2005 – March 2006 (p. 37), http://www.ombudsman.bg/annual_report.pdf

The establishment of an active cooperation between the Ombudsman and civil society structures will support the process of monitoring the state administration's work and enhance citizens' involvement in governance.

The popularisation of the results of the Ombudsman's work will contribute for raising citizens' awareness on the possibilities for protecting their rights and will ensure the improvement of the administration's work.

At local level, the municipal council is in a position to elect a **public mediator** to ensure the process of upholding citizens' rights and legitimate interests before the local government bodies and local administration.⁵² The organisation and activity of the public mediator are settled in Rules adopted by the municipal council. The municipal council provides the necessary working conditions and remuneration of the local public mediators. Such mediators are already active in 14 municipalities on the territory of the country. The municipal councils of a number of municipalities have adopted Rules for the statute, organisation and activity of public mediators who have not been appointed. The Law on Local Self-governance and Local Administration regulates the appointment of public mediators but does not make it mandatory. This is why the institution has been established only in a few municipalities.

The good interaction of the national Ombudsman with local public mediators will contribute for further strengthening the role of the Ombudsman institution as a form of civil control on the administration. The local mediators will become more confident to openly raise problematic issues that citizens face in their interaction with municipal bodies.

The appropriate mechanisms for interaction of the local public mediators with the national Ombudsman are: elaboration and implementation of common standards and best practices in the work on reviewing citizens' claims and signals; drafting of Rules for the interaction of the national Ombudsman with the local public mediators which upon discussion will be approved by an act of the Ombudsman, etc.

The Ombudsman institution is an important **tool for the implementation of international standards for human rights' protection at national level**. The simultaneous existence of an Ombudsman on the European and national level is a prerequisite for the effective protection of European citizens' rights and freedoms against violations by the national administrations and EU institutions. They guarantee the implementation of the EU law and European standards in the relationship between citizens and the authorities in the member states.

In order to fulfil his mission as a defender of citizens' rights in the light of the international and European legislation, it is of great importance for the Ombudsman to establish relations with similar institutions on international and European level.

3. THE ADMINISTRATION – PARTNER OF THE BUSINESS

The use of different **forms of public-private partnerships**⁵³ **gives (PPP)** the possibility to modernise the administration through an optimal use of public resources. The cooperation

⁵² Law on Local Self-governance and Local Administration, (Art. 21a); (see Annex No 3).

⁵³ See Annex No 5.

between the business sector and the administration will create conditions for combining innovations, technological, financial, management and expert skills on the part of the private sector and a stable legislative framework and security on the part of the state. Key factors for the successful realisation of the different forms of cooperation are: the implementation of the harmonised legislative PPP base; the private sector awareness of the partnership possibilities with the state administration, as well as the public sector's awareness of the potential and the interests of the private sector.

The European experience in the PPP sphere is not unequivocal, in many member states there is no law for the PPP. In Bulgaria there are different ways of interpreting the **meaning of the term PPP** (concessions, management contract, outsourcing, joint venture, rent, etc.).

A legally established form of PPP in Bulgaria is the **concession**⁵⁴. The rules and procedures for preparing and conducting procedures for awarding concessions, the negotiation and contracting phase of concessions as well as their implementation and cancellation are regulated by law. The LC defines concession as a main tool through which the State (or a municipality) can award a project under the PPP model. The competent body that settles disputes under the procedures for granting concessions is the Commission for the Protection of Competition (CPC).

At central as well as municipal level administrative capacity for the preparation, award and control on the implementation of concessions has been built. The different ministries have created **specialised directorates for awarding concessions**. Their staff, functions and tasks depend on the scope of the conducted concessions activity and are provided for in the rules of procedure of the respective administrations. Structural units have been set up in the municipal administrations for organising the concessions activity.

For the implementation of the new legislation in the concessions sector⁵⁵, training for the administration on central and municipal level has been launched.

In cooperation with the international financial institutions (IFI) and their subdivisions and initiatives (EIB, JASPERS, EBRD) analyses of the expedience of use of PPP schemes at sectoral and project level are being prepared. The joint activities with the IFI are going on, and the preparation of manuals and guidelines for the introduction of good practices from other Member States as well as the identification and structuring of PPP pilot projects are still pending. The respective documents will be prepared in accordance to the Community legal framework in the field of PPP and Public Procurement, the Green Book on PPP, issued by the EC, etc.

Management of EU Funds Directorate within the Ministry of Finance is a member of the Steering Committee which coordinates the activities related to the creation of an European PPP Experts Centre, an initiative of the EC and the EIB.

⁵⁴ Law on Concessions (see Annex No 3).

⁵⁵ In 2006 with the cooperation of SIGMA Programme, pilot trainings for the staff working in units that grant concessions have been conducted. The first training has been attended by staff from the Economic and Social Policy Directorate and the Legal Directorate of CoM, from ministries, from the Republican Road Network Fund, the National Association of Municipalities in Bulgaria and from several municipalities. The second training has been attended by a broader circle of participants.

In the priority infrastructural sectors environment and transport, the possibilities for PPP implementation for construction of enterprises processing domestic waste, construction of highways, bridges and other road facilities are being analyzed. As of August 2009, an interministerial working group is operating in order to prepare analyses of the justification for concessions' granting for two high motorways in the country. In these two priority sectors further development of the administrative capacity for structuring PPP projects is needed, taking into consideration the complexity of this type of contractual relations. Under such schemes a number of factors related to the overall project life cycle are to be analyzed. This includes economic and financial justification, distribution of risks between the parties, the expenditures for exploitation and maintenance during the operational period, the environmental impact, etc. In order to achieve these goals, the use of expertise and the introduction of good practices from the EU Member States and other countries will be necessary.

Outsourcing is another type of PPP that can provide a possibility to decrease costs and improve the quality of services. For its successful implementation in Bulgaria, it is important to create suitable conditions and implementation guidelines (including analysis on the possibilities for the implementation of the PPL and LC).

In 2007, a review of the legislation related to administrative services and the possibilities of introducing PPP was done. Analyses of the functions and services that can be delivered jointly by the administration and the private sector as well as by outsourcing have been performed. For selected services, cost-benefit analysis, risk analysis, etc. have been made. 19 pilot projects have been implemented in total, 10 of them dealing with the provision of services under PPP – on central, regional and municipal level⁵⁶. As far as the administration is concerned, the major problems identified were: the lack of understanding of the PPP concept; unwillingness to change the status quo; focus on the costs and not on the results; lack of performance evaluation systems for offering services; preparation and conduct of tender procedures and contracting. A methodology for partnerships with the private sector in providing public services has been elaborated, too⁵⁷.

Besides concessions, PPP can also be implemented through **public procurement**. The principles, rules and procedures for public procurement have been set out in the national legislation⁵⁸.

The Bulgarian state policy in the public procurement field is being executed by the Minister of Economy. A **Public Procurement Agency (PPA)**⁵⁹ has been established under the minister, supporting him/her in implementing the policy. The PPA is the institution responsible for conducting the training in public procurement. In this regard the administrative capacity of the Agency has been strengthened.

⁵⁶ The spheres where the projects have been implemented are as follows: research and development, tourism, regional development (2 regional administrations), information services (2 municipal administrations), social services (4 municipal administrations).

⁵⁷ Project under PHARE BG 2003/004-937.10.01 "Strengthening the Capacity of the Bulgarian State Administration – Implementing the Strategy for Modernization of the State Administration in View of the Improved Service Delivery to the Public" in MSAAR.

⁵⁸ Public Procurement Law (see Annex No 3).

⁵⁹ www.aop.bg

The PPA should continue the specialised trainings of persons managing public funds, including funding from the SF, the Cohesion Fund (CF), the European Agricultural Fund for Rural Development (EAFRD), the European Fisheries Fund (EFF).

A **Public Procurement Register** is maintained by the PPA providing the possibility to electronically submit tender notices (e-Notifications). The PPA sends the information automatically to the State Gazette thus relieving contracting authorities of this obligation. Two more stages of the process of awarding public procurement electronically are to be implemented – “Questions and Answers” and “Electronic Document Receipt”.

According to data from the Public Procurement Register, **12,011 contracts** have been concluded **in 2008** amounting to **more than BGN 21.846 bln**⁶⁰. It is expected that the value of the contracts under the PPL will increase because since 01/01/2009 the funding from the EU financial instruments can be granted only under the provisions and procedures of the PPL.

The regulation of the rules for **e-auctions**⁶¹ is of great importance for the development and improvement of the public procurement system. At present, e-auctions are not in place as this is dependent on the technical base of the contracting authorities.

With the amendments to the PPL, the **Commission for the Protection of Competition (CPC)**⁶² has become the competent body that settles disputes on the implementation of the law. The quick and competent settlement of disputes under the PPL and the LC requires strengthening the administrative capacity of the CPC for the effective performance of its new functions.

The use of different PPP forms aims at improving administrative service delivery, at enhancing transparency of public funds management as well as at decreasing spending of the administration. In order to successfully apply these forms of cooperation with the private sector, the following is needed:

Development of a clear concept of PPP and analysis of the need for legislation amendments in order to establish favourable environment encouraging private partners to create PPP

Further development of the general guidelines for PPP, preparation of sector rules/guidelines for complex fields; adoption of good practices from other Member States, especially in priority infrastructural sectors such as environment, transport

Training of state administration employees and their preparation for dealing with the complex PPP nature, especially in investment projects, and for the effective application of the legal framework and the adopted guidelines for PPP implementation (LC, PPL, Law on the Obligations and Contracts, Law on Spatial Planning, Law on State Property, etc.)

Measures for promoting awareness and strengthening the capacity of the private sector and of potential contractors, paying attention to the possible partnership forms between the business sector and the state administration.

Supporting measures that will improve the functioning of the PPA and CPC will guarantee proper implementation of the PPL and CA. The latter is also of key significance as regards the effective absorption of EU Funds in compliance with the rules for sound financial management. Improving the existing e-system and the use of e-procurement are important for the modernisation and acceleration of the process of awarding public procurement.

⁶⁰ For comparison, in 2005 the total number of concluded contracts was 10,348 amounting to more than BGN 3.295 bln (<http://www.aop.bg/statistics.php>).

⁶¹ Public Procurement Law (Art.16b); (see Annex No 3).

⁶² www.cpc.bg

3. PROFESSIONALIZATION OF THE PUBLIC ADMINISTRATION

The establishment of a modern administration meets a lot of challenges: on one side, creating a contemporary professional civil service with responsible civil servants, who possess the needed competences and potential, and on the other – the requirements, coming from the membership of the Republic of Bulgaria in the European Union.

The reform of the public administration aims at creating an atmosphere, which actively encourages the innovations, introducing good practices and EU achievements.

The process of modernization of the administration requires thorough and improved knowledge of the employees, considered with the EU acquis, mastering skills for applying new style in work, initiative and will for achieving good results in servicing the citizens and businesses. The public assessment for providing high quality, transparent, competent and timely service to a great extent depends on the professionalism, the wish and responsibility of the staff to develop and improve their knowledge and skills.

The European dimension of the professional skills and employees' qualification in the administration consists in assuming contemporary models for organization and functioning of the administration according to the best practices in the EU Member States.

The dynamics in the development of the public administration leads to opening of strategic planning at the level of organization; development of public-private partnership; outsourcing; coordination of the efforts between the municipalities for development of joint projects, development and management of projects for absorption of means from the EU funds.

The Strategy focuses on the application of contemporary models and techniques for governing the potential of the employees, on creating anti-corruption environment with clear control rules, encouragement and motivation of the employees for disclosure and prevention of conflict of interests.

Key element of the effective and modern policy in the area of the human resources in the administration is the improvement of the system for permanent development of employees' competencies, professional skills and qualification.

3.1. Education and qualifications structure of state administration staff

The quality of work of each employee is closely related to his/her qualification and professional experience. "At the entrance" of the state administration an open competition is introduced, which aims at matching the specific qualifications and professional experience of a given candidate with the needs of the respective administration.

The increase in the number of employees who have a higher educational degree is a continuing trend. In 2008 the employees in the state administration with a university degree made up 69.6% of the total number of employees, while the year before they were 64.6% and in 2004 – 63.0%.

The highest number of employees with a university degree can be found in the regional administrations (89.0%, compared to 87.5% for 2005), and the lowest number of university graduates are in the municipal administrations – 52.8%.

The main reasons for the relatively lower number of university graduates working in the municipal administrations are: the migration process from smaller to larger cities and regional centres which offer greater personal development possibilities; the more attractive remuneration packages offered by the private sector; demographic problems and others.⁶³

75.5% of university graduates in 2006 possess a **Master degree**, 12.4% have a Bachelor's. PhDs amount to less than one per cent of the employees with a university degree, and 11.2% are specialists.

In order to increase the qualifications and educational level of the civil servants, the Minister of State Administration and Administrative Reform and the chancellors of seven universities in 2006 signed Letters of Agreement for **multi-module** specialisations for state administration employees. The forecast is that in the 2009/2010 academic year close to 900 employees will have gone through specialisations in three thematic areas – “Administration Management”, “Organisation of the Administrative Workload and Processes” and “European Administrative Practice”.

Data show that the educational structure of the state administration is generally improving, especially in the central and regional administrations. The relatively low number of university graduates working in the municipal administrations requires targeted measures to be taken to improve their educational and qualifications levels.

3.2. Training organisations to the state administration

The government is committed to continue the implementation of an integrated policy for human resources management in the state administration.⁶⁴ A key element of the Strategy for Training the Employees of the Administration is the link between the employees' professional development and training.

All administrative structures issue annual training plans for their employees, and the Minister of State Administration and Administrative Reform approves a general annual plan and allocates funds from the budget to each structure for training. This allows for a more standardized, systematic and well-targeted training.

The funds for enhancing the servant's qualification are annually approved alongside the adoption of the state budget. Since 01/01/2007 these funds have increased from 0.8% to 2% of the funds for salaries⁶⁵. The increased resources for training offer greater possibilities for improving the staff motivation.

⁶³ Report on the State of the Administration for 2006,

http://www.mdaar.government.bg/docs/Annual%20Report%20%202006_26.07.2007.pdf

⁶⁴ In 2006 the CoM updated the Strategy for Training of State Administration Staff and the Action Plan for its Implementation for the period 2006-2007.

⁶⁵ Civil Servant Act (art. 35); (see Annex No 3).

The Institute of Public Administration and European Integration (IPAEI) delivers two types of training – **specialised and compulsory**. **The compulsory training** relates to professional development⁶⁶ and is taken only once by those who have just taken up employment within the state administration and by senior civil servants who have just taken on a management position for the first time, as well as by senior-civil servants once every year. This requirement is related to the need to acquaint the people taking on new positions with the relevant legislative documents, with the organisational principles, the structure, basic functions and current trends in the development of the administration.

IPAEI offers a wide range of specialised courses, seminars and other forms of training which have been grouped in separate thematic programs. They are aimed at the various professional groups and positions within the administration. The employees, in consultation with their supervisors, select the appropriate courses and seminars.

In the period 2002-2005 the number of administration employees that have undergone **specialised trainings** has significantly increased. For the central administration the increase has been 320%, and for the territorial one – 136%.

In 2006-2009 over 241,400 employees from the administrative structures have passed different forms and areas of training. The total number of people trained in 2008 was **higher than the total number of the employees within the administration** because a large number of them have participated in more than one training. The trainings have been financed through the central budget, as well as under different MSAAR and IPAEI projects, implemented by them or in partnership with other institutions, including international ones.

In 2008 51,274 employees were included in different short-term specialised trainings **financed through the central budget and through the various administrations' own budgets**. The increase in number and quality of the specialised trainings for upgrading professional competence is aimed at employees from different position levels in the central administration and in the regional and municipal administrations.

In 2008 a total of 9,553 (18.6% of all trained) employees have enhanced their qualification in the field of IT. 4,845 (50.7%) of them work in the central administration, and 4,708 (49.3%) – in the regional and municipal administrations.

The trainings being conducted for administration officials receive high support. 74% of those trained point out that in the majority of cases these courses enhance their professional competences, the most significant positive feedback coming from the municipal administrations. These results reflect a generally acknowledged need for strengthening the administrative capacity. Apart from the central administration which has been the biggest beneficiary of training courses for improving the qualification, there is also a clear understanding within the smaller municipalities of the need for such trainings as a mechanism for improving the quality of work.

The civil servants point out as most necessary and useful the foreign language courses (36%) and those in IT (24%). It is important that the foreign language training of staff is enhanced in view of Bulgaria's membership in the EU and the need for better service delivery to citizens

⁶⁶ Civil Servant Act (art. 35b); (see Annex No 3).

and business sector. Ranked next are the trainings for improving communication skills (22%), most popular amongst central administration officials (38%)⁶⁷. Trainings on EU-related issues, modern management theory and practices, improvement of writing skills, negotiation and dialogue skills, skills to present and justify national policies at EC level are also considered as needed.

The qualification trainings emphasise on their preparation for collaborative work with the EU institutions and on building an adequate administrative capacity for implementing the *acquis*.

Trainings in areas related to preparing the municipalities for the effective absorption of EU funding such as project development, attracting investments, implementing EU *acquis* in the area of environmental protection, public procurement, public-private partnerships and many others of specific interest and related to the work of the municipalities have been organised in 2006-2008. The trainings delivered so far have been more general, without offering in-depth knowledge, practical skills and work habits, and without prior training needs assessment.

A comprehensive analysis of the training needs of state administration employees needs to be carried out. Based on this analysis, training programmes can be improved to reflect the current trends and needs of the employees at different levels of the administration. The training programmes should cover basic knowledge on various topics, as well as practical courses close to real-life circumstances.

The number and quality of the specialised trainings, both for central as well as local and regional administration employees, need to be increased. This will improve the competences of the employees and help the efficient performance of their responsibilities in the conditions of EU membership.

There needs to be good coordination to ensure the delivery of various trainings. Apart from the traditional training formats, new methods need to be used to allow the employees to perform their daily obligations.

⁶⁷ Survey among the state administration staff conducted by Transparency International in the period 15-30 August 2006 (page 3).

A REVIEW OF THE CROATIAN PUBLIC ADMINISTRATION REFORM

Vinko KANDŽIJA

University of Rijeka, Faculty of Economics
Croatia

Davor MANCE

University of Rijeka, Faculty of Economics
Croatia

Željka Tropina GODEC

Ministry of Administration of the Republic of Croatia

Abstract

Public administration reform is a very important area of Croatian EU accession negotiations. The main criticism regarding the Croatian public administration is addressed towards its size and inefficiency. Public administration reforms run slowly. The existing legal and administrative system in Croatia is complex, and needs urgent simplification. Large discretionary powers lead to inefficiency and legal uncertainty, and provide incentives for corruption. Criticism is also referred towards the underdevelopment of local and regional self-government, and towards weak decentralization. Modernization of public administration (state administration, local self-government and public services), its full professionalization and provision of fast and reliable public services is an integral part of good entrepreneurial environment and a requirement for a better living standard of all citizens. Only by promoting a proactive way of thinking of state officials, the public administration can achieve its purpose, which is serving the citizens. In March 2008 the Croatian Government adopted “The Public Administration Reform Strategy” for the period between 2008 and 2011. This established a strategic framework for further reforms of state administration. This paper is a review of the Croatian public administration reform.

INTRODUCTION

Public administration is one of the strategically important areas of reform and of ongoing efforts of the Croatian Government. Modernization of public administration (state administration, local self-government and public services), its full professionalization and provision of fast and reliable public services is an integral part of good entrepreneurial environment and a requirement for a better living standard of all citizens. Open, reliable and transparent public administration is important for the Croatian joining of the European Union. Only by promoting a proactive way of thinking of state officials the public administration can achieve its purpose, which is serving the citizens. Most of the responsibilities for the absorbing capacity and the implementation of the *acquis communautaire*, as well as the efficient representation of Croatian interests in the European Union lie on the public administration. Competence, responsibility and motivation of public administration are a guarantee to the inclusion of Croatia in the EU as an equal member. In March 2008 the Croatian Government adopted *The Public Administration Reform Strategy* for the period between 2008 and 2011. This established a strategic framework for further reforms of state administration. The building of a modern public administration requires continued reforms in the direction of increasing the competence and effectiveness of public administration, increasing its expertise, professionalism, knowledge, and transparency; the fight against corruption, the development of electronic public administration and the overall reduction of operational costs by removing obsolete and by simplifying existing regulations.

The main objectives of the public administration reform highlighted by the Strategy are:

- The increase in public administration efficiency.
- The increase in the level of administrative services quality.
- The increase in transparency and accessibility of public administration.
- Strengthening the standards of the rule of law.
- Strengthening of the social sensitivity of state administration regarding its citizens.
- The increase in the public administration ethics and the reduction of corruption.
- Use of modern information-communication technologies.
- Inclusion of the Croatian state administration in the European administrative space.

The *Public Administration Reform Strategy* includes goals to be achieved by the reform of state administration, establishes the main areas and directions of the reform, analyzes the situation in these areas, establishes strategic measures to be implemented, holders of these measures, a timetable for their implementation, the necessary financial resources and monitoring and evaluation of reform implementation. The state administration reform is a continuous process which was already systematically begun to be implemented before the adoption of the Strategy, so its former results were highlighted in the Strategy.

To achieve these objectives defined by the *Strategy*, the reform of state administration continues in five main directions:

1. Structural adjustments of state administration include reductions of public administration, increase in its effectiveness i.e. cost savings, improvements of coordination, openness i.e. transparency of government to citizens and participation of citizens and civil society in the government.
2. Strengthening of laws and other regulations, their quality, planning, design, and the evaluation of the effects of new regulations and implementation legal regulation.

3. The new system of civil servants will provide a modern civil service. The emphasis of the system design is on measures of de-politicization and professionalization; on further system development and human resources management, fight against corruption and strengthening of civil servants ethics, the introduction of an incentive system of remuneration according to the results, and the reform of salaries in public administration.
4. Education and training of civil servants, in order to acquire new knowledge, skills and competencies required by the development of modern public administration. In addition, it provides for the establishment of appropriate administrative systems of education.
5. Simplification and modernization of administrative procedures, as well as the creation of electronic government (e-government).

To monitor the implementation of the *Strategy* of a public administration reform, the Croatian Government established a National Council for the Evaluation of the modernization of state administration. However, after the Ministry of Administration was founded in 2009, and took the responsibility for directing the process of reform and modernization of the entire administration, the National Council for the Evaluation of the modernization of state administration was abolished, and the monitoring of the implementation of the Strategy will be provided by the Ministry of Administration.

There are five recognized fields of Public Administration research:

1. Organizational Theory in Public Administration studies its institutional framework.
2. Ethics in Public Administration serves as a normative framework to decision making.
3. Public Budgeting is the activity within government that seeks to allocate resources.
4. Policy Analysis serves as an empirical approach to decision making.
5. Human Resource Management in Public Administration focuses on the state employees, their ethical standards, incentives, efficiency and merits.

The rest of the paper largely follows this structure and gives an overview of the reforms in the Croatian public administration.

1. REFORM OF THE INSTITUTIONAL FRAMEWORK

Within the public administration structural adjustments, few major topics are emphasized. Firstly, there is the need to reduce the overall size of the government in the economy. The overall government expenditures including all government institutions, ministries, agencies, public services, and public enterprises (with public administrative powers) etc. amounts to more than a half of the GNP. It is not necessary to strike the influence this has on the overall economic efficiency. So, it is of paramount importance to reduce the overall size of the general government at least to the more acceptable levels found in other similar transition countries. By reducing the size of the overall government expenditures, inevitably, its structure shall also be altered. The reduction of the public administration size implies the improvement of its efficiency. Simultaneously, the quality of the work done by the public administration should be improved too. This could be made possible only with the improvement in the coordination and coherence in the work of governmental institutions, the openness of the government to the citizens and the participation of citizens and civil society. An increase of the organizational effectiveness of public administration means to pursue the

principle that organizational boundaries between state administrations must not be visible to users of their services. In 2008 the number of ministries was reduced from 19 to 13. It was the first significant step that increased the organizational effectiveness of public administration.

Given the need to emphasize the development of state administration and administrative support for the decentralization, a Ministry of Public Administration was established in July 2009 in order to strengthen the management and administrative capacity of governmental bodies responsible for the state administration reform. The amendments to the Law on the Organization and Scope of Central Government Bodies established the Ministry of Administration, which took over the work from the Central State Administration Office.

The *Public Administration Reform Strategy* includes the revision of the organizational structure, management and functions of government bodies and related bodies (agencies) for the division of powers, and to determine which functions and powers should be performed in the state administration, and which can be rationally performed at other levels, or left to the market. This means the abolition of unnecessary functions, and the gradual transfer of necessary functions to non-government entities. The functional analysis was conducted in 10 central government bodies and 5 state administration offices, and most of the recommendations of the final report of functional audit, which are related to the organizational changes, were implemented. Based on the results of the functional analysis, it is necessary to identify and remove unnecessary function overlaps in the performance of certain governmental authorities and to reduce the number of managerial levels and thereby reduce the organizational fragmentation. In this way a sleeker and shallower and hopefully more efficient organizational structure could be achieved.

The Strategy also provides for the need to establish clear and uniform rules for the establishment and operation of public agencies. This also includes the preparatory work for the creation and regulation of public agencies in Croatia. Therefore, in September 2009, a working group was established consisting of representatives of different ministries. The Strategy provides measures to improve the coordination and coherence in the work of government bodies at central level and between the central state administration bodies and state administration offices in counties. Some of the measures have already been implemented. The Regulation on Internal Organization of the state administration in counties defined a formal form of cooperation between state administration offices. As a formal form of cooperation, it was established to regularly meet once in two months, and the meetings were attended by representatives of central state administration bodies.

The part that refers to the openness of the government to the citizens, strikes the need for further improvement in the transparency of public administration and more citizen participation. Access to information held by public authorities is a buffer against power abuse and corruption, and a challenge to create a more responsible administration. A considerable amount of information of public importance is given through governmental web pages. Furthermore, the government seeks in other ways to contribute to the informational needs of the citizens. The Centre for Training within the Department of Administration holds seminars for public officials, and actively participates in the International day "Citizens have a right to know" celebrated on 28th September.

The Information Access Right Law which Croatia adopted in 2003 ensures the citizens right to access information, and assures openness and transparency of public actions by public

authorities. In March 2009, the Croatian Parliament adopted a report on the implementation of the Information Access Right Law for the year 2008. According to the report data, the authorities received a total of 2.731 requests to access information, of which 2520 were accepted, 103 requests were declined, and 55 are pending, while 84 requests were transferred to other competent authorities. The report shows that public authorities gave the requested information in the majority of cases. Only a small minority of subjects was denied the requested information. In October 2008, the Croatian Government adopted a conclusion on the obligation of delivery of quarterly reports on the implementation of the Information Access Right Law. The preparatory work for drafting amendments to the Information Access Right Law is under way. This work is based on the observations collected by government bodies, the City of Zagreb and other relevant bodies who observed deficiencies in the application of the Act.

The new system should provide for a modern public administration. The design of the system puts emphasis on measures of de-politicisation and professionalization, system development and human resources management, it should fight corruption and strengthen the ethics of civil servants, it should remunerate public servants according to their results.

The implementation of the legislation on the de-politicization of the civil service (which began by modifying the system of state administration and the adoption of the Law on Civil Servants) is fully completed. In the process of de-politicization, the number of political appointment positions was reduced so that the roughly 200 town officials became civil servants management positions. In February 2008 the Government amended the regulations dealing with the classification of jobs in the civil service which were the conditions prescribed for the appointment of senior civil servants. After the analysis of job descriptions in all state administration bodies, the Regulation on the classification of jobs in the civil service a job description form was published on the Ministry of Administrations website. The government has pledged all government bodies to complete the analysis of the number of employees according to the presented classification structure in order to determine the number of employees arising from the obligations of the Republic of Croatia towards the European Union. The strategy of a civil service human resource development is in preparation.

2. LOCAL SELF-GOVERNMENT REFORM

In achieving the objectives of the reform, it is necessary to pay equal attention to local government and state administration. The present territorial organization of local self-government units is inadequate. The system is organized in 21 counties including the City of Zagreb, and 425 municipalities and 124 cities. Numerous municipalities lack the fiscal strength to build the necessary administrative capacity to perform even the most basic tasks.

In October 2007, the Croatian Parliament adopted a Law, which provides for direct elections of the mayors. The Law on Local and Regional government, which primarily regulates the relationship between directly elected executives - the municipal mayor, the city mayor, and the mayor of the City of Zagreb and the representative bodies of local and regional governments. The introduction of the new electoral model allows citizens to directly elect the holders of executive power and contributes to greater transparency in their election. In May 2009 local elections, the new electoral model was implemented for the first time. Voter turnout was higher and the new model stopped the downward trend in the turnouts.

In October 2009 an analysis of local and regional governments established criteria for their sustainability analysis, and prepared changes in the existing regional structure in Croatia. On 7th December 2009 a round table on “The Territorial organization of Croatian Government” was held by the Ministry of Administration. It requested a detailed analysis of all parameters that could be a criterion for determining the potential for territorial reorganization. The practice shows that some local governments are hardly to meet the needs of citizens because they have no adequate administrative and financial capacities, and the complete reform of local government should go in the direction of development of more transparent, efficient, responsive and responsible local government. Rationalization of territorial organization wants to achieve a reduction in overall administrative costs of local government and strengthen their administrative and financial capacity.

Within the CARDS 2003 Program, the project “*Strengthening of the Administrative Capacity*” the National Strategy calls for functional and fiscal decentralization and human resource development, which was presented at the final conference in May 2008. The above strategic document was accompanied by a sector report (for Health, Education and Welfare). The project tried to improve the overall institutional and legal framework for decentralization, and improve the overall coordination and monitoring of the decentralization process. Under the 2nd Component of the CARDS Project, an assessment of public officials and civil servants training in local and regional governments was made and a testing was conducted on educational needs in local governments, and based on the results of the national strategy of education in local governments.

As a member state of the Council of Europe, Croatia is the signatory to the European Charter of Local Self-Government. Croatian Parliament adopted the Law on Ratification of the European Charter of Local Self-Government in September 1997. European Charter was not ratified in its entirety, but in accordance with its Article 12, a contracting party has to ratify 20 articles. However, on 16th May 2008 the Croatian Parliament adopted the amendments to the Law and doing so ratified the European Charter in its entirety.

During 2008, the Law on Officials and Employees in Local and Regional self-government was enacted. The *Bill on Regional Development* is in procedure, and it would be in line with the legislative basis from the field of regional development characterized by fragmentation and lack of coordination. The law would regulate the goals and principles of management of regional development. The Law should constitute the legal basis for regional development activities and reflect the basic orientation and objectives of regional policy. The law should provide a basis for introducing the general principles of EU regional policy, to create a basis for coordination of special legislation in the field of regional policy and provide the foundation for future programming and use of EU Structural Funds at regional level.

3. THE NEW DIGITAL ERA GOVERNANCE AND E-ADMINISTRATION

One of the basic elements of public administration reform is the introduction of electronic administration, whose role is to facilitate the provision of services to citizens and other parties, and which guarantees transparency and efficiency.

Simplification and modernization of administrative proceedings is the next field of reform designated by the Strategy. This reform refers to the simplification of administrative proceedings and better realization of the rights of the parties and also strengthening the role of

electronic government in economic development. For the purpose of simplification and modernization of general administrative proceedings, in the first half of 2009, a new General Public Administration Procedure Law was enacted. Its implementation will start on 1st January 2010. The Proposal of the Law was created under the CARDS 2003.

Implementation of education for the new General Public Administration Procedure Law is done under the IPA component - Transition Assistance in strengthening institutions for year 2008, with the support of SIGMA.⁶⁸

Application of the new General Public Administration Procedure Law is a topic of one-day seminars organized by the Ministry of Public Administration in cooperation with the SIGMA (Support for Improvement in Governance and Management) for the leading officials of state administration and local and regional governments. Seminars were held in early December in Zagreb, Split, Opatija and Osijek. The aim is to introduce the target group with the new General Public Administration Procedure Law, its course and the subtypes of administrative proceedings, legal remedies and judicial protection in administrative proceeding, and giving insights into international experience in the reform of administrative proceedings.

To reduce the percentage of administrative acts abolished in second-instance proceedings due to the violation of rules of procedure, special attention is paid to the education of the administration officers. The Strategy envisages the introduction of a special professional examination for officers who lead administrative procedures, and prescribes the legal profession as a condition of employment.

The joining of the EU must create a public administration “without parties in the corridors”, i.e. to enable the performance of all tasks and communication with public administration electronically. So far, the results achieved in implementing e-government (e-justice, e-Cadastre, e-taxation, e-customs, e-Regos) are the best argument for the further intensification of such activities. Opening the modern communication channels between public and private sector, accelerate operations and communications with the public administration, as has already been achieved with the www.hitro.hr service, a strong contribution to the reform of state administration, and an improvement of the entrepreneurial climate. Also, essential activities, such as a continuous publication in electronic form of official forms of state administration bodies, which citizens and businesses may submit via public telecommunication networks, training of civil servants in the area of application of information technology (implemented by the Center for Training Officer) and computerization of state administration offices in counties, is also carried out.

A new Regulation on Office Operations was adopted, and its implementation began on 1st January 2010. It is an adaptation of the administrative work to the IT requirements of the administration. It introduced the possibility of electronic communication between citizens and government bodies, and the possibility of using electronic signatures.

⁶⁸ SIGMA (Support for Improvement in Governance and Management in Central and Eastern European Countries) is a joint initiative of the OECD Centre for Co-operation with the Economies in Transition and the European Union's Phare Programme. The initiative supports public administration reform efforts in thirteen countries in transition, and is financed mostly by Phare.

4. REFORM OF THE NORMATIVE FRAMEWORK

The second fundamental area of the planned strategy includes the strengthening of laws and other regulations, their quality, planning, design, and the evaluation of the effects of new regulations and implementation legal regulation. In order to strengthen the functions of strategic planning, the Strategy envisages the establishment of units for strategic planning within the state administration or the introduction of the strategic planning function in one of the existing organizational units. Moreover, other goals are: defining the strategic priorities of state government and the establishment of permanent progress monitoring of the fulfilment of the obligations set out in the Plan, and the education of government officials on strategic planning. Some government bodies have set up units for strategic planning, and the education on the strategic planning is continuously carried out at the Centre for Professional Development and Training of Civil Servants at the Ministry of Administration, under the leadership of civil servants. In addition, a special program for strategic planning has been developed. Comparing Croatia to the European Union, during the preparations of the bill, the last phase of preparation of sectoral and other policies was largely absent, and the ministries began to create the draft bill without sufficient prior analysis. The Strategy identified the need to prepare the gradual introduction of the proposal (with concept designs, possible options, impact assessment and its implementation).

The citizen and stakeholder participation in public debates is very important. Procedures and instruments for checking the quality of new regulations with a view to the adoption of each new regulation, its impact on economic activity and its costs, should be established. The Croatian Government Rules and procedures introduce the obligation of assessment of the effects (financial, economic and environmental impacts and effects on the economy) of laws and other regulations before their implementation. A systematic approach is necessary to review the existing regulations in order to eliminate unnecessary and outdated ones, and in order to reduce operating costs, remove the barriers to investment, and what is particularly important, reduce the number of potential sources of corruption. Therefore, the strategy envisages the continuation of the analysis of existing regulations and elimination of provisions that limit economic development and the rights and freedoms of citizens. In this regard a policy named *Hitrorez* (literally meaning “speedy cut”) has been put up. To ensure the implementation quality of adopted laws, and to address the delay problem in the adoption of subordinate legislation, special attention is devoted to education of officials in the implementation of laws and other regulations and in the monitoring of their implementation. Also, the strategy is determined by the needs of monitoring the by-laws, and it is therefore compulsory to create an overview of regulations and sub-regulations and deliver it to the Croatian Government. Within the implementation of the State Administration Reform Strategy a normative framework shall be established. This means a series of new regulations or a revision of the old ones in a way to comply with the existing EU “acquis” in the process of accession, but also to reform and modernize the state administration.

Special attention was paid to the reform of administrative procedures by a new Law on General Administrative Procedures. The new Law on General Administrative Procedures was passed in March 2009, and the application will start on 1st of January 2010. A new Office Business Regulation was adopted, regulating the electronic functioning of the public administration. It introduced the possibility of electronic communication between citizens and state administration bodies and the possibility of using electronic signatures. The application

of the regulation begins on 1st January 2010. A new Law on Administrative Inspection was adopted, which prescribes a continuous inspection. At the same time, it strengthens the organizational structure of administrative inspection within the Ministry of Administration.

During the early 2009 The Civil Servants Salaries Bill was sent to the Croatian Parliament. During the process in Parliament were presented complaints about the need for more precise criteria for assessment. It was requested from the SIGMA to produce comparative studies on best EU practices in terms of public servants evaluation. This was submitted to the Ministry of Administration in September 2009. The Government has not given up on passing this legislation although it passed the deadline for submission for a second reading to the Parliament. The Government is actually considering the possibility of making a unified law on salaries for the entire public sector (civil service, local self-government, public services).

Salaries in Local and Regional Government Bill were also discussed in the first reading session of the Croatian Parliament, and on 30th July 2009 it was passed to accept the conclusion that the proposal, and all comments, suggestions and opinions will be sent to the proponent for the preparation of the final bill. The preparations for the changes of the Information Access Right Law are under way. Furthermore, in May 2009 the Croatian Government adopted a report on the state of resolving administrative cases in the state administration during the 2008, which shows that the state administration received 6.733.267 administrative cases in first instance, of which it resolved 6 074 985 cases, or 90%.

5. REFORMS IN HUMAN RESOURCE MANAGEMENT

In the area of human resource management, the Strategy determined the need to provide a greater degree of decision-making decentralization and a greater individual responsibility of civil servants regarding the achievements of the goals set by a negotiated set of plans and a more accurate determination of their work assignments and duties. In addition, it identified the need to provide objective and measurable criteria for performance judging and the introduction of the system of efficiency remuneration. The new system of salaries (defined by the Law on Civil Servant Salaries) should ensure merit based and consistent remuneration policy for the entire state administration. Presently, there is no instituted system of incentives based on performance or merit. Years of service and the education degree appears to be the main factor determining the salaries which is a strong disincentive on attracting and retaining young people and qualified experts. The Government of Croatia passed a decision in July 2009 banning the employment of new civil servants and employees in state administration bodies until the adoption of the Croatian state budget for the year 2010. The ban does not apply to the newly established Ministry of Administration and the employment of civil servants who are required to carry out the commitments towards the European Union. Combating corruption and strengthening the ethical levels in the civil administration are the main goals of the Strategy. A Civil Servant Code of Ethics was passed and all governmental and judicial bodies appointed a Commissioner for ethics. Their task is to monitor the implementation of Code of Ethics. These officials give advice on ethical behaviour, they receive complaints about officials and citizens on unethical or corruptive behaviours, and they record and investigate complaints. Attention is paid to further promotion of ethical principles in public administration. Amendments to the Code of Ethics were passed in November 2008. The Ethics Committee was established as an independent body that promotes ethical principles in public bodies. The Commission has six members, and is made by the representatives of civil servants, trade unions, professionals of the Croatian Parliament and

NGOs. In May 2009, there was the first meeting of the Ethics Committee which adopted the rules and the procedures, an activities plan, and the President of the Commission was elected.

The Centre for Professional Development and Training continues the education to strengthen the ethical standards of civil servants and raise the awareness about the negative effects of corruption. An education program for trustees of ethics was made, which includes an introduction to basic concepts of combating corruption, the Code of Ethics, etc. Furthermore, the changes in the Civil Servants Law determined the penalty of a compulsory termination of the civil service for civil servants sentenced with corruption and prescribed the protection of officials exposing the cases of corruption (the Whistleblowers).

In March 2009 the Law on Amendments and Supplements to the Law on Conflict of Interest in the Performance of Public Duties was passed, which stipulated that members of the Commission for the Conflict of Interest elected the deputy president of the Commission from among prominent public officials in order to achieve greater independence of the Commission.

In terms of ethnic minorities' representation in public administration, the state administration bodies employed a total of 2.137 persons belonging to some national minority.⁶⁹ The Centre for Training of civil servants at the Ministry of Administration held training programs for civil servants on the topics of "Legal protection of national minorities" and "The constitutional protection of human rights and civil liberties." In 2008, the Law on Officials and Employees in Local and Regional self-government stipulated that the local government units have to plan the admission and availability of jobs in governing bodies for ethnic minorities, and the employment plans require a certain number of persons belonging to national minorities to assure their effective representation, in accordance with the Constitutional Law on National Minorities and the law regulating the system of local and regional governments. Members of national minorities shall be guaranteed the right of representation in representative and executive bodies of local and regional governments in accordance with the Constitutional Law on National Minorities, the Law on Election of members of representative bodies of local and regional (regional) governments and the Law on Local and Regional self-government. The local and regional governments in which an adequate representation of national minorities in representative bodies was not provided by the regular local elections held on 17th May 2009, an additional election for representatives of national minorities was held on 6th December 2009.

Education and training of civil servants, in order to acquire new knowledge, skills and competencies required by the development of modern public administration is an important area of reforms envisaged by the Strategy. The Strategy provides for the establishment of appropriate administrative systems of education, emphasizes the need for systematic implementation of professional training of civil servants at all levels and in all government bodies through general and specialized training programs. Permanent Training of civil servants in acquiring new knowledge and skills necessary for personal professional development and career progression is a key factor in the development of human resources, and thus increases the efficiency and quality of work in the public administration in general. Nevertheless, it is open to debate whether such a model is optimal, since Croatia has a well institutionalised and cost-effective system of universities. A parallel system of education

⁶⁹ Ministry of Public Administration data, August 2009.

implies the employment of additional staff in all ministries and in particular at the Ministry of Administration, with all the problems parallel systems bring. These reforms are mainly headed to establish a comprehensive system of administrative education. While special attention is paid to IT literacy, language learning, learning about the role and functioning of a modern public administration, about public administration practices in developed market economies, and especially important to raise the level of knowledge about EU institutions, EU acquis and the challenges of its implementation.

In collaboration with the University of Zagreb, the Government organized a one-year postgraduate and professional study, "Public Administration". The first group of students began to attend the studies during the academic year 2006/2007. Furthermore, the Strategy envisages that the Regulation on the classification of job vacancies requires the professional bachelor's degree of Public Administration, the degree of a Master of public administration or a degree of a specialist of public administration, and this is generally regulated by the Regulation on Amendments to the Regulation on the job classification from July 2008.

During 2009 the education of civil servants has continued at the Center for Training of Public Officials, as well as education of local officials through the Academy of Local Democracy. In February 2009 the Plan was adopted to train civil servants in 2009, whose implementation is entrusted with the Ministry of Administration, Center for Professional Education and Training Section. A catalogue of training programs was made for 2009, and was distributed to all government bodies. It was also published on the website of the Ministry of Administration and is thus available to all civil servants. A report draft on training needs for 2010 was made, as well as a training plan for civil servants for 2010. The most popular training programs are related to IT skills, foreign languages, training of management skills, administrative procedures and communication skills. In addition to the general education programs, various other specialized programs and specialized one-day and two day seminars were conducted.

In April 2009, a seminar with the purpose of training on a comprehensive insight into current legislation on public access to information was held at the Center for Vocational Education and Training Section. The seminar was organized for officers who perform these tasks in the state administration. In early December a seminar was held (in Zagreb and other cities) related to the implementation of the new Law on General Administrative Procedures. A workshop "Introduction to the new system of executive authorities at the local level" was held on the future direct election of executive leaders in local and regional self-government. The workshop was organized by an association of municipalities with the aim to introduce representatives of local self-government with a new executive at the local level, and the challenges it brings. In January 2009, in The Centre for Professional Education and Training, a section of a Harvard Executive Education Program was held on the theme: "21st Century Governance: Critical Skills for Leading and sustaining Innovative Organizations." The program is organized by the Harvard Kennedy School, Cambridge, USA. Also, in November 2008 an International Agreement establishing the Regional School for Public Administration (ReSPA) in Podgorica was signed. The agreement was signed by the representatives of Croatia, Albania, Bosnia and Herzegovina, Macedonia, Montenegro, Serbia, and in the presence of the representatives of the European Commission. ReSPA thus becomes an international organization with headquarters in Danilovgrad in Montenegro, with the goal of improving regional cooperation in the field of public administration, of strengthening the administrative capacities and human resources development in accordance with the principles of European administrative space.

6. CONCLUSION

The public administration reform is a compulsory obligation of the Croatian Government. It also bears the ultimate responsibility for the timeliness, appropriateness and content of the reform measures and their implementation. The government conducts surveillance strategies to achieve the reform of the state administration, and the evaluation of results is carried out at least once in six months.

For the political and technical support of the reform of state administration the National Council for the Evaluation of the Modernization of State Administration was established. However, the establishment of the Ministry of Administration, which is responsible for directing the process of reform and modernization of the entire administration, abolished the National Council, and took over its responsibilities. Each government body is responsible for implementing measures within their competence, and the implementation of measures to inform the Croatian Government and the Ministry of Administration. The reform evaluation results are given on an annual basis, while the revision of the Strategy and the making of proposals on amendments to the Strategy are given after about two years from the date of its adoption.

The new public administration system should provide a modern civil service. The system design puts emphasis on measures of de-politicization and professionalization, human resources and system development; it is designed to be transparent and to repel corruption and strengthen the ethics of civil servants. It tries to regulate the remuneration of the public servants according to the results. Croatia has a national interest in pursuing those goals, not only for the sake of joining EU but for the sake of the development of its own governance as a prerequisite of its own socio-economic development.

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NEW MODEL OF REGULATORY DECISION MAKING AND THE PUBLIC ADMINISTRATION REFORMS. THE ROMANIAN CONTEXT

Luminita Gabriela POPESCU

National School of Political Studies and Public Administration Bucharest
Romania

Abstract

Representation is the key to the proper functioning of any democracy and an important value itself. But, a good functioning of the democracy must take into account as a primary value not only representation, but also the means of solving the problems.

The last decades represented for EU members a period in which the public's trust in deciding structures has suffered a major decrease. In terms of decline of public trust, in a 15 year period from the early 1980s to the mid 1990s, according with World Values Survey, the public's confidence in parliament fallen significantly in many European countries. For example, in Finland, from 65 to 33 per cent, in Germany from 51 to 29 percent and in Spain from 48 to 37 percent. In Romania the situation is resembling in the way that the trust in policy makers have fallen. Polls indicate that the public's trust decreased from 44 to 21 per cent in period 2003-2007.

This profound distrust proven by the E.U citizens shows „citizen's rejection of policy making behind closed doors” and „the government by announcement”, where decisions have been taken without public consultation. The top-down form of risk communication in which regulators/government communicated a one-way fashion to the public was the modus operandi.

This present paper is focused upon researching the institutional changes and the approaches necessary to make the new model not a threat to European policy making processes, but a contribution to ensuring a better regulatory framework for Europe.

The main conclusions one may draw from this presentation, aim at offering possible answers to the following questions:

- 1. How can we ensure that the stakeholder participating in the policy process is the way for rebuilding the public trust?*
- 2. How can we ensure that transparency in policy making does not lead to unnecessary amplification of risks and public confusion?*
- 3. Is placing citizens' priorities on different levels in the multilevel governance structures suggesting multiple possibilities for influencing the European agenda by forces other than the public opinion?*

1. INTRODUCTION

„The New Euro barometer reflects the difficulties of this period. No doubt, citizens are extremely worried about the economic crisis. The challenge the European Union is facing continues to act in terms of the economic recovery package, which has been recently adopted. It is noteworthy that the figures reflecting the support to the European Union membership and the perceived benefits arising from this quality have not decreased. These data suggest the population apprehends the European Union as part of the solution” said Margot Wallström, Vice-President of the European Commission in charge with Inter-institutional Relations and Communication Strategy, regarding the Standard Euro barometer survey conducted during the 6th October and the 6th November 2008.

The essential characteristic of this survey is the pessimistic perception the European Union citizens have on the current economic situation and its outlook.

More than two-thirds of the European Union citizens (69%), i.e. 20 percent more than in fall 2007, deem the economic situation in their country to be bad if compared to 58% (+ 31) who consider the European Union economy is in a bad situation. The assessment of the current economic situation on a global scale – a question that was introduced in this survey for the first time – is similar to the one regarding the national economy, where 71% of citizens consider it to be rather bad.

The expectations of European Union citizens regarding their future are also extremely pessimistic. More than half consider the economic situation in their country is to worsen during the next 12 months, while 41% embrace the same opinion regarding the whole European Union and 49% regarding the economic situation on a global scale.

37% of the European Union citizens deem the economic situation (+ 17) to be one of the major problems their country must currently face, and an issue that has become the main reason of concern, at the same level with inflation.

The three main indices of the general attitude towards the European Union – support to European Union Member States (53%, + 1), benefits arising from European Union membership (56%, + 2) and European Union image (45%, – 3) – are either stable, or slightly decreasing if compared to spring 2008.

At the same time, trust in the European institutions has reached a rather sound level and is stabilized – the European Commission – 47%, The European Parliament – 51% and the European Central Bank 48% – even though the trend indicates slightly increasing mistrust.

A second component we are to relate to in order to delineate an exhaustive expression of the mindset of the Romanian citizens is national context. In these terms, the last decade represents a period that has been markedly characterized by drastic decrease of the public interest in its national institutions. Thus, the Euro- barometer **68.2** reveals the following values have been recorded during 2006-2007:

Mindset	2006	2007
Trust in Parliament	24%	18%
Trust in Government	27%	21%

Source: Euro-barometer 68.2. Public Opinion in The European Union.

This deep lack of trust shown by citizens is an expression of their refusal to accept *public policies formulated behind closed doors*, a practice where decisions are made without consulting the public. In an ideal world, the elected officials are the decision-makers on all public policies. In the real world, the political and administration boundaries are rather difficult to delineate, so that situations when bureaucrats become involved in political decisions, on the one hand, and politicians assume „breaking” the line between politics and administration, on the other hand, are quite frequent.

Public administration is directly involved in carrying out the entire public policies process. In certain cases, this can originate in new public policy proposals as regards its relationships with the agencies or ministry departments in charge with implementing the respective policies. In other words, success or failure of a given policy is the direct result of the actions taken by the administrative structures that are responsible for implementing the respective policy, and the administration's knowledge and expertise that are absolutely instrumental to carrying out any specific policy.

So, the bureaucracy power lies in the knowledge, expertise and discretionary authority it holds. Moreover, this power may be strengthened through attracting support from interest groups involved in developing a specific policy. For example, parents, pupils, students and teachers, when education policies are involved, or farmer communities when agricultural policy is involved, etc. These groups seek to exercise considerable influence by supporting those policies they are interested in.

Pressure exercised by these groups with a view to get budget resources directed to the benefit of certain fields of activity may lead to disparagement of government investment programs, mainly during difficult times as the present ones. Moreover, the very existence of these groups is a “significant capital” that is put at the disposal of certain administrative structures who appeal to it whenever they wish to either finance a new program (which is not provided in the budget approved by the Parliament), or supplement financing of programs in operation; this is a means to involve these groups in different political battles, which entails decedibilization of the groups' participation in the public policies process, but also decrease of public trust in those institutions responsible for public policies management.

In this research, we aim to identify those strategies that will enable bureaucracy to:

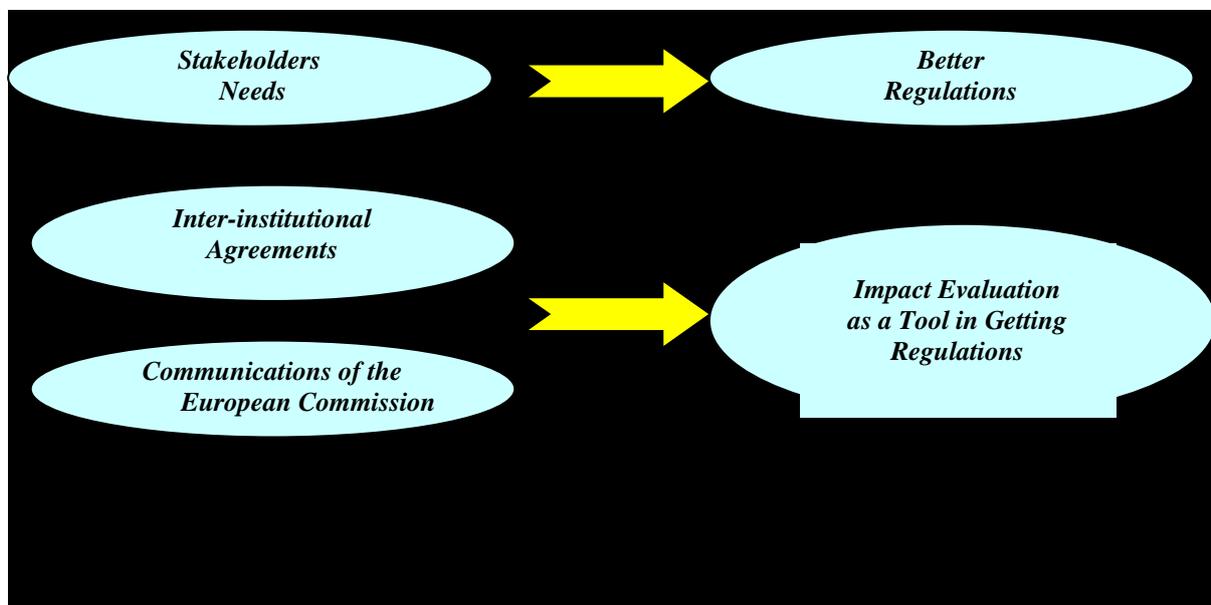
- (1) Stimulate stakeholders' participation in the public policies process and also contribute to the reconstruction of public trust;
- (2) Ensure transparency of political policies decisions without enhancing the risk and confusion at public level (*policy vacuum*);
- (3) Increase responsibility related to decisions made to meet public interest.

In the present context, characterized by total mistrust shown by citizens towards institutions, it is imperative to embrace and enact a new regulatory model (The European Commission, 2001, Lofsted, 2004), to actually contribute to increasing public participation and trust.

The new regulatory model aims at changing the European Union⁷⁰ regulation philosophy through:

- 1) Participation of citizens and stakeholders in public policies, which should be fostered through panels, round tables or other kinds of meetings organized between citizens and stakeholders;
- 2) Transparency of regulatory strategies (through proposals being posted on the Internet) and assumed responsibility by strategy initiators;
- 3) Transfer from Precautionary Principle to Risk Impact Assessment and a more careful approach to the environment and society values;
- 4) Distinct separation between risk assessment and risk management.

To give up the so-called traditional regulatory model is a response to pressure exercised by both citizens and stakeholders to accomplish better rules that will contribute to regain trust of citizens.



2. FOSTERING THE CITIZEN AND STAKEHOLDER PARTICIPATION IN PUBLIC POLICIES AND RECONSTRUCTION OF PUBLIC TRUST

Romania has adopted two relevant Acts in this respect, i.e. Law No. 544/2001 on the free access to information of public interest, and Law No. 52/2003 on decision-making transparency, laws that aim, among other things, to ensure compliance with the international standards in the field.

“Citizen participation is a process that facilitates integration of citizen concerns, needs and values in the decision-making process of the local public administration”.⁷¹

⁷⁰ Lofstedt, R.E., „The Swing of the regulatory pendulum in Europe: from Precautionary principle to (regulatory) impact analysis”, *Journal of Risk and Uncertainty*, 2004.

⁷¹ For further details, see Eric Chewtynd and Frances Chewtynd, *Citizen participation to improve decision making in local public administration*, Research Triangle Institute — The Assistance Program in Public Administration from Romania, Bucharest 2001.

Fundamental values in public participation practice⁷²:

Public should assert their opinion on decisions related to actions that may affect their own lives;

Public participation includes the promise that the public's contribution will influence decision-making;

Public participation communicates interests and meets the needs of all participants;

Public participation requests and facilitates involvement of potentially affected people;

Public participation invites participants define how they will get involved;

Public participation shows participants how their contribution affects decision-making.

In assuming extensive measures aimed at public openness to ballot and fostering public input, citizens are offered an opportunity to effectively take part in the administration process in a way that involves neither voting participation, nor being associated in interest groups.

Experts in the field have identified three main sources from which difficulty in the application of Law No. 544/2001 arises.

Institutional issues: drawbacks in organizing free access to information within public institutions. The appropriate solutions to this kind of difficulties should be first sought at management level, through improvement of institutional work procedures and professional training and formation of the public service officers. At the same time, attention should be granted onto clarification and completion of methodology norms for the application of Law No. 544/2001, through Government Decision.

Issues related to the administration of justice: difficulties mainly connected to executing judicial decisions in favor of those who request information and the possibility to apply sanctions or remedies. Though more and more frequently courts of law issue decisions in favor of people whom public institution have infringed their right to the free access of information, effective access to the required information can be further impeded by those who detain the information. Further possibilities of sanction application or remedies granting by courts should be explored.

Legislative issues: difficulties related to insufficiency of Law No. 544/2001 or improper correlation with other legal norms. The accumulated experience during the more than three years of Law application indicates that Law No. 544/2001 should also cover other types of entities who make use of public funds. On the other hand, a potential effort to change and amend the Law does not mainly refer to the legislative framework, but to other norms and acts that restrain free access.

Any modification of the legislative framework that rules access to information should be carefully and cautiously tackled with. A great many problems and difficulties that have been identified so far can be solved through using internal management solutions, as well as through better justice administration. Any further modification of Law No. 544/2001 should exclusively consider expansion of the application area of the obligation to ensure free access to information of public interest.

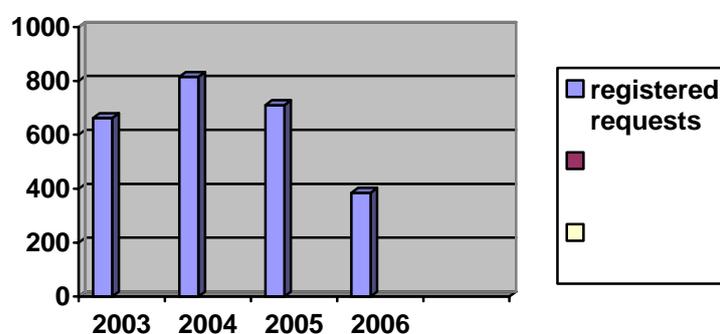
⁷² <http://www.transparency.org.ro/Proj%20details/raport%20preliminar%20de%20evaluare.htm>

Such a step should meet the consensus of all involved parties and should not be forced upon one part as long as the consensus is not reached. At the same time, any risk that the law text may be amended in an undesirable manner by the Parliament of Romania should be evaluated and minimized through coherent *lobbying*, which needs time, and careful preparation and coordination from all involved organizations.

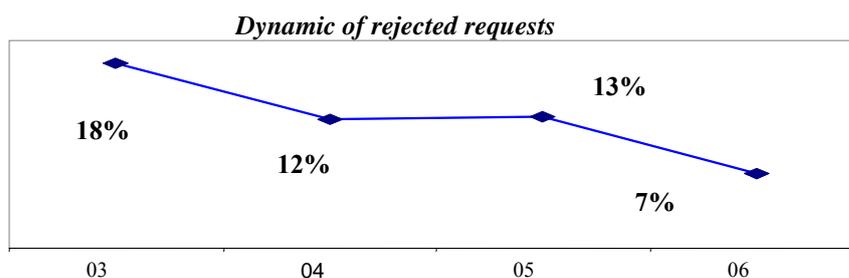
Implementation Dynamics of Law 544/2001

The analysis undertaken by the Agency for Governmental Strategies⁷³ on the implementation of the law on free access to information of public interest during 2003-2006 reveals a descending dynamics in public request for information during 2004-2006.

Implementation Dynamics 2003-2006

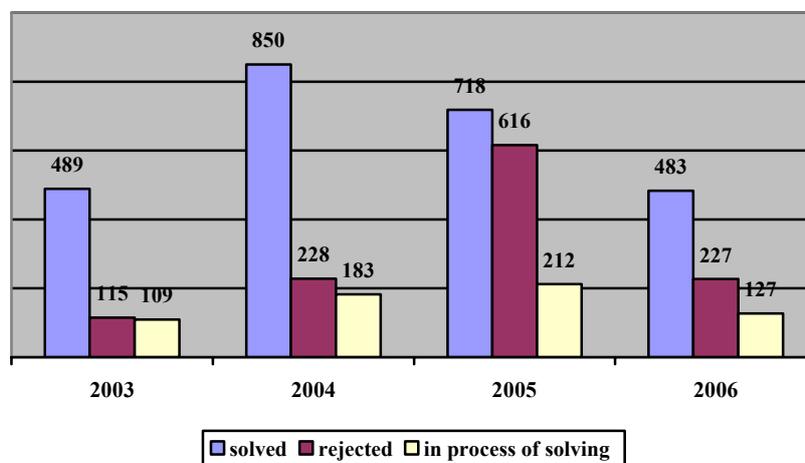


Implementation dynamics 2003-2006



Rejected requests decreased both in absolute figures and percentage out of the total registered requests (absolute figures)

⁷³ The Agency for Governmental Strategies, (2007) *Report on the implementation of law No. 544/2001*.

Implementation dynamics 2003-2006

Source: The Agency for Governmental Strategies, (2007)
 Report on the implementation of law No. 544/2001

The average number of complaints in court during the last 3 years is approximately 900. The number of solved complaints in favor of public institutions decreased as the law-abiding responsible officers learned to correctly apply the provisions of the Law. The number of administrative complaints filed in favor of complainers increased in the electoral year 2004.

The number of administrative complaints continued to decrease. Most complaints were filed in favor of citizens. It is worth mentioning the outbreak of complaints filed in favor of claimants during the electoral year 2004.

The conclusions of the report highlight that:

- 1) the most used means to issue information of public interest was *ex officio* and by posting the information at the institution's headquarters, which explains why only those directly interested in getting the information had had access to it;
- 2) very few institutions actually use the Official Gazette to release and publish the list of information *ex officio*; almost three-quarters of the local public administration had published information *ex officio* at the institution's headquarters, all other means being little used. Minimal use of the Official Gazette, though imposed under the Law as far as publication of annual reports and bulletins by each institution is concerned, is due to its impracticality and high costs.
- 3) Apart from information posting at institution headquarters, the central administration significantly uses the press and its Internet website.

3. TRANSPARENCY OF REGULATIONS

According to the Transparency Law, citizens and their organizations will be able to express their opinions and interests associated with bill drafting and decision-making. The tools at hand are their consultation by public authorities on any draft legislative acts and norms, as well as public hearing organized by the respective authorities. Lack of transparency, as well as other limitations related to legislative activity, will lead to decreased trust of the society in the power and importance of the norms and acts. Absence of consultation leads to norms

being frequently altered or replaced, which results in a strong legislative instability, and does not provide the needed safety for the present legal framework from Romania. Actual application of the transparency principle will lead to increased trust in laws and regulations as long as they are adopted after consulting the interested factors. Trust in the legislative framework shall result in a higher law abiding with a positive influence on economic development and maintenance of a cooperative relationship between the Government and the citizens.

Nevertheless, it must be said that, under certain circumstances, transparency may lead to *policy vacuum*⁷⁴. One such example was created during the negotiations that were recently carried out between the Education Minister and the representatives of the Education Trade Union. A series of conflicting news, presented as "reliable news", were released by the press during the whole negotiating period, a situation that engendered general confusion and was definitely received as a negative piece of news by the factors directly interested in the negotiation results.

Implementation Dynamics of Law 52/2003

The report presented by The Agency for Governmental Strategies⁷⁵ related to the implementation dynamics of this Law reveals an increased number of regulatory acts in the 3 years' analysis. The monitored indices in the mentioned report show a general rise of institutional transparency as a result of both constant pressures by the public opinion on the operation of public institutions, and the training courses organized by ASG, other public institutions and NGOs.

At the administration level as a whole, the recommendations included in normative acts are 59% out of the overall formulated recommendations. At central level, the same index is 53%, while at local administration level it is 64%. This percentage confirms a higher openness towards citizens (78% of the projects were released to the public).

Almost 80% of the 201.743 draft normative acts that were initiated by the local administration were publicly announced.

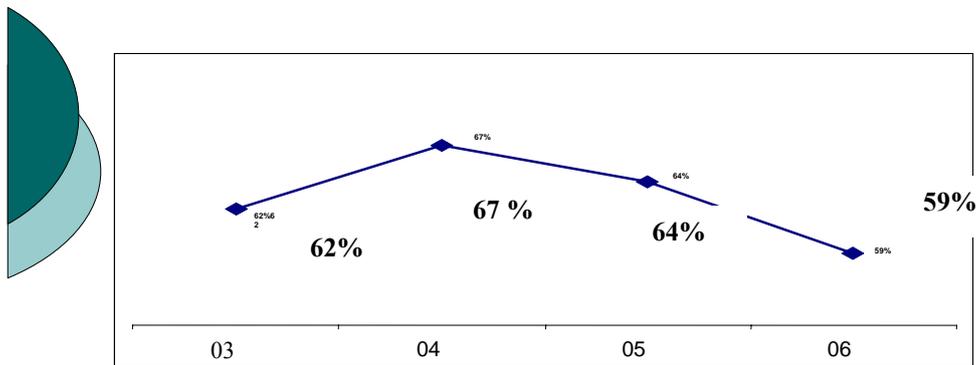
In 2006, the number of cases filed in court for public institutions almost doubled if compared to the ones filed for the claimants. This trend that also present in 2005, as Law was better and better applied by public authorities.

⁷⁴ Powell, M. and Leiss W., in R., Lofstedt, „Risk Communication and Management Risk in the 21st century”, Joint Center, April 2004, p.10.

⁷⁵ The Agency for Governmental Strategies (2007), *Report on Implementation of Law No. 52/2003 on the Decision Transparency in Public Administration, 2006.*

Implementation Dynamics 2003-2006

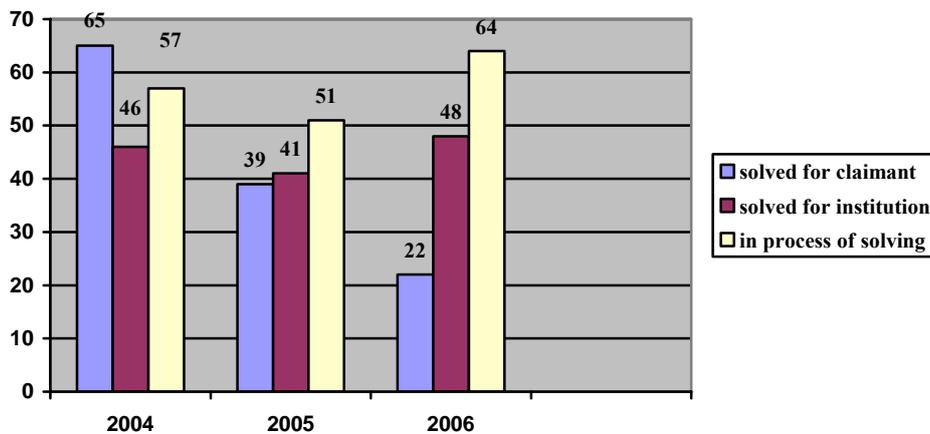
Percentage of recommendations included in draft normative acts out of the total recommendations



In absolute figures, the number of requests received and requests included in draft normative acts has increased every year. The evolution of recommendations included in normative acts out of the total formulated recommendations follows an ascending trend.

Implementation dynamics 2003-2006

Number of justice cases of non-compliance with Law No. 52/2003



The justice cases have reached approximately 130 during the last two years. The identified trends for the last 3 years are as follows: decrease of the number of cases filed for the claimant, maintenance of the number of cases filed for the institutions and increase of the cases in the pipeline.

Apart from the positive aspects, the charts show a series of dysfunctions as follows:

- (1) though, in absolute figures, the number of registered recommendations and recommendations included in draft normative acts has increased, the percentage of recommendations included in normative acts out of the total formulated recommendations followed a falling trend during the 3 years the Law was applied;

- (2) Only approximately half of the 3,147 normative acts drafted by the central administration were publicly announced. The great number of draft legislative acts that were adopted without prior public announcement point to a certain institutional lack of transparency;
- (3) The 2006 report confirms a low level of civic participation with only 4,446 requests for information provision on draft normative acts under debate, if related to the total 204,890 adopted normative acts;
- (4) Out of the total number of public sessions (44,173), only 12% were carried out in the presence of the mass-media (5,212).

4. RISK ASSESSMENT

Risk analysis tools, e.g. Regulatory Impact Assessment (RIA), are an example of turning the attention from the choice of qualitative standards to a calculation-based approach and a more formal tackling with decision-making (Hood et al, 2001).

To understand introduction of Risk Impact Assessment by the European Union it should be noted that the last 20 years' specialized literature abounds in strong debates on the use of impact assessment tools by the European Commission (Lee, 1995; Canter 1996; Barker and Wood, 2001).

Transfer from Precautionary Principle to Impact Assessment represents a change in the regulatory philosophy of the European Union (Lofstedt, 2004)

	Precautionary Principle	'Smart Regulations'
<i>Long-term objectives</i>	<i>Sustainable development promotion</i>	<i>Pursuit of competitiveness</i>
<i>Principles</i>	<i>Considering decision approaches related to risk management when information is uncertain, irrelevant or inadequate</i>	<i>Responsibility granting, transparency and consistency</i>
<i>Approach</i>	<i>Principles and processes are based on standardized approach.</i>	<i>Flexible approach based on the process.</i>
<i>Achievement standards</i>	<i>ALARA (as low as reasonably achievable); BACT (best available control technology); Constant monitoring of potential effects.</i>	<i>Quantitative objectives</i>
<i>Regulatory strategies</i>	<i>Command and control. Strategies that do not necessarily foster innovation and are not based on cost-benefit analysis.</i>	<i>Flexibility and performance standards. Focus on results. Strategies to reflect the need for performance as expressed by the targeted population.</i>
<i>Risk management</i>	<i>Focus on hazard. "Precaution" involves a cautious approach of uncertainties or vulnerabilities.</i>	<i>Focus on risk-benefit analysis. "Risk" involves a quantitative evaluation management of probabilities and potential hazards.</i>

Source: The King Center for Risk Management, London University, 2006.

With reference to Romania, we note that Impact Assessment is not a tool ultimately included in the regulatory process of public policies. Cases are still frequent when rules are issued to be either given up, or essentially amended in the following period. Such behaviors reveal serious deficiencies relating to the preliminary steps in issuing the respective regulations.

5. CONCLUSIONS

Functionality of the new European regulatory model is strictly determined by the existence of a responsible administration able to accept the idea of *client-citizen*⁷⁶, in other words a *public service* administration where the concepts of *who controls* and *how they control* are definitely established.

Therefore, the necessity that bureaucracy adopt a series of significant changes should be put forward again, as the present context, when the old rigid structures and the traditionally bureaucratic management practices are perpetuated, do not constitute a proper background for the new imperatives of a responsible administration.

Responsibility may be interpreted as an outside policy acting on bureaucracy. The objectives of the responsibility granting policies (identification of clients and their interests) are vaguely defined, while pressure exercised towards accountability let the administration face major confrontations.

Under pressure from citizens whose requisitions are more and more sophisticated, from new management approaches that involve abandonment of management by objectives (MBO) and adoption of management by result (MBR). In the bureaucratic hierarchy, activities are carried out according to the general rules and the preset norms.

The main objective of the command and control structures is to ensure conformity to these rules and norms. In such a system, improvement of efficiency and process effectiveness involve approval of a series of legislative modifications.

Knowledge of objectives and result measurement are two imperatives of the change that public managers should focus on to prove themselves able to effectively organize and use resources (including informational resources), take upon themselves achievement of the respective objectives and identify employee motivation means. In other words, a new kind of management approach is needed, one to be focused on performance definition and acceptance-oriented.

To outline a new management context based on results first means the necessity to create new models of inter-relations development between the central administration and the local and regional administrations; between administrations and citizens belonging to local and regional communities; between administrations and different groups of citizens. Secondly, there is an imperative demand for structural reform within the central and the local administration, in order to maximize efficiency (so that they become compatible with flexible structures – network type) and increase the administration capability in decision-making through involvement of citizens and representative interest groups for communities in the process. From a pragmatic standpoint, to accomplish such a structure involves outdoing a variety of challenges. On the one hand, are citizens aware of the importance of their commitment? Are they really motivated to get actively involved in such a structure?

⁷⁶ The individual citizen is part of a social contract, while the client is part of a market contract. The client is subordinated to the citizen. Now, there is a tendency to overturn this hierarchy through public management – Christopher Pollitt and Geert Bouckaert, 1995, p. 6.

On the other hand, how well are the public and political authorities representatives prepared to accept co-operation with different categories of citizens? First of all, one must reveal the quality of civic culture and education that is needed to accomplish such a construction. Secondly, it is a matter of responsibility proved by both the political factors and the public authorities as regards concentration towards developing civic culture to change this structure into a functional form. It is only if community members become aware of the benefits it entails - what literature calls co-governance - that they will be ready and eager to commit themselves to different governance forms.

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Chapter 3

A Balkan Model of Public Administration – Myth or Reality?

WHAT'S IN A NAME? THE CASE OF THE EUROPEAN ADMINISTRATIVE CONSOLIDATION IN CROATIA IN COMPARISON TO THE CENTRAL AND EASTERN EUROPE

Diana-Camelia IANCU

National School of Political Studies and Public Administration Bucharest
Romania

Abstract

*In May 1995, European Union issued the White Paper “Preparation of the Associated Countries of the Central and Eastern Europe for the Integration into the Internal Market of the Union”, where it stated that “the main challenge for the associated countries in taking over internal market legislation lies not in the approximation of their legal texts, but in adapting their administrative machinery and their societies to the conditions necessary to make the legislation work [...]” (paragraph 3.25). The European Council in Madrid (1995) brought the solid orientation of the Community towards enlargement while stressing the need for candidate countries (at the time) to adjust their administrative structures. What continued to be lacking though (creating as such confusions for the accession agenda) was the reference to how national administration of the CEE countries must adapt or towards what they needed to direct their institutional public administration reforms. This is what this paper aims at clarifying, by offering a possible, democratic reading of the “consolidated administration” criterion in the case of Croatia, using the experience of the CEE countries (specifically, Bulgaria, Czech Republic, Hungary, Poland, Slovakia, Slovenia and Romania). In doing so, I will investigate the European Union’s role in the public administration reform of Croatia. My assumption in the case would be that the European Union is an actor that during the accession trials, assists Croatia in democratizing the organization and functioning of its public administrations, just as it did in the case of the CEE countries. The cross-country comparison of the public administration reforms is to be made under the theoretical framework provided for by the Europeanisation and New Public Management literature, while the operationalisation of the consolidated administration criterion will be achieved by redesigning Robert Dahl’s democratization theory and apply it on the case of the European Union’s *acquis communautaire*. My documentary analysis on national public administration reforms will be restricted on strategy-level documents of the countries in question and the Progress Reports the European Commission provided during the past and current enlargements. The *acquis* will be at its turn limited as to refer strictly to the original treaties and those following*

them; the Accession Treaties of the Member States and the international organizations and acts of the organizations created through international agreements. A special attention will be also given to the contents of the White Paper on Enlargement of the European Union. As far as the outcomes are concerned, I expect the research to allow a refining of the role the European enlargement policies play in confirming the domestic political options for administrative reform in Croatia. In addition, a clarification of the “consolidated administration” criterion might prove useful for the advanced study of the public administration reforms in the current associated countries to the European Union.

1. CHOOSING THEORIES: ON EUROPEANISATION ABOUT DEMOCRATIZATION

Commonly used, Europeanisation generally implies a product “of the European Union” or “generated by the European Union”. Scholars active in the field however, find it rather hard to simply draw causality lines between European stimuli and national changes. If to consider that Europeanisation names the impact of European integration on Member (and Candidate) countries, then national changes in the latter might be linked to the presence (or traces of presence) of the Union in the region. It is this very situation which generates methodological complications; still, finding a (some) subject (s) where European Union and the changes associated to it lack in presence might just do the trick. However, as studying Europeanisation so far, mainly concentrated on units of analysis where the European stimuli *were* present (be it inside Member or Candidate countries), the alleged independent variable (the impact of the European Union), remained a constant⁷⁷.

The “causality puzzle” is, indirectly, a subject addressed by this paper as well. The aim put forward here is to identify the stimuli the European Union gave to the Central and Eastern Europe in terms of organization and functioning of the public administration, and only later link that to the studies on Europeanisation and to the case of the accession of Croatia to the European Union.

1.1. The actors: on Central and Eastern Europe, Croatia and the European Union

In (little more than) fifty years, the European Union grew from 6 to 27 members. The last and most serious enlargement (in terms of number of acceding countries) raised different and interesting concerns for the national administrative capacities of both Members and Candidates of/to the European Union. What was the exact nature of the European administrative requirements; and how can they be integrated in an Europeanisation logic and were they used so far in the case of the Croatian accession to the European Union, are the three questions to be addressed below.

Firstly however, choosing definitions seems appropriate: who is then the Central and Eastern Europe? For the purpose of this paper, seven countries will be considered under this name: Bulgaria, Czech Republic, Hungary, Poland, Romania, Slovakia and Slovenia (Table 1).

Table 1

The four acts of the European Union’s enlargement to the East

States of Central and Eastern Europe [...]	Sign the Association Agreements in:	Request formal accession in:	Start negotiations in:	[and] become members of the European Union in:
Bulgaria	1993	1995	2000	2007
Czech Republic	1993	1996	1998	2004
Hungary	1991	1994	1998	2004

⁷⁷ For relevant discussions on the topics above, please see *inter alia*, Ladrech (1994); Knill and Lehmkuhl (1999); Bomberg and Peterson (2000); Börzel and Risse (2000); Laegreid (2000); Radaelli (2000); Olsen (2002); Featherstone (2003); Falkner (2003); Grabbe (2003); Haverland (2003); Töller (2004); or Howell (2004).

States of Central and Eastern Europe [...]	Sign the Association Agreements in:	Request formal accession in:	Start negotiations in:	[and] become members of the European Union in:
Poland	1991	1994	1998	2004
Romania	1993	1995	2000	2007
Slovakia	1993	1995	2000	2004
Slovenia	1996	1996	1998	2004

As for Croatia, relevant information follows (Table 2):

Candidate country [...]	Signs the Stabilisation and Association Agreement in:	Requests formal accession in:	Starts negotiations in:
Croatia	2001	2003	2005

Surely, arguments can be raised against treating countries in bulk categories such as the one of „Central and Eastern Europe”; however, leaving aside eventual national differences to focus on similar European expectations, the choice made here would eventually argue in favor of the already famous “unity (in European stimuli) in diversity (of possible national reactions)”. Analyzing stimuli and reactions against an European background is talking of Europeanisation. (Again) Briefly on this, below:

For the content of this paper, Europeanisation defines the impact of the accession criteria upon the national orders of Central and Eastern Europe. Three possible types of Europeanisation for candidate countries are envisaged here: the “top-down” approach (the Union gives, while the candidate countries take – type **Ec1**), “bottom-up” approach (the Union gives what was previously influenced by the candidates, the taking being thus facilitated – type **Ec2**) and an approach dealing with the policy transfer between Members and Candidates (type **Ec3**) (figure 1):

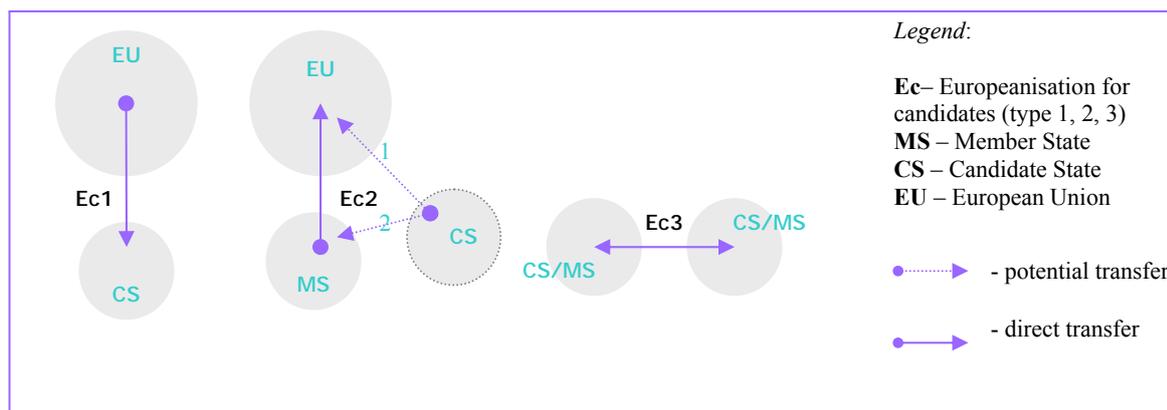


Figure 1. Three types of Europeanisation (actors involved: Member and Candidate States and the European Union)

Ec1: for Central and Eastern European Countries (CEEC) and Croatia, “top-down” Europeanisation names the transfer of European products (for instance, the *acquis communautaire*) from “top” (the European Union level) to “down” (the public administration

of the CEEC / Croatia). This is facilitated by the asymmetrical relationship specific to the accession process. Who produces and who uses is, in this case, noticeable.

Ec2: Europeanisation here should name the involvement of CEEC/Croatia in formulating the European products. However, candidate countries had little to say in that regard: they could only receive permanent derogations and vary the transfer forms, by generating innovative solutions. There are two possible exceptions worth to be mentioned: firstly, if to assume that the enlargement policy of the European Union was influenced by the degree of accession readiness of CEEC, for instance and their integration, and that through Agenda 2000 for instance, the Union acknowledged the need for institutional and enlargement framework reform, then one could argue the possible (indirect) contribution of CEEC to the modeling of European policies and subsequent, of the *acquis* (in Figure 1, Transfer no.1). Similarly, if considering that Croatia's state of readiness in becoming a Member State has influenced the European Union's policy of enlargement to the Western Balkans, then one can argue the existence of **Ec2**. Secondly, if to admit that there is a transfer from the candidate state to the Member State, the candidate country might involve itself in generating the European product, by using the Member State (in Figure 1, Transfer no. 2) (here, **Ec3** is, in fact, a condition for **Ec2**).

Ec3: keeps its specificity (from the case of Member States), changing solely the actors: CEEC or Croatia may interact amongst them and with Member States (at the administration level). In this case, Europeanisation names exclusively the policy transfer dimension, without the direct intervention of the European Union.

Taking into account the argument of this paper, solely **Ec1** is to be considered; as such, the interest in this paper is to be given to the accession criteria and their impact on the national order of CEEC and furthermore, Croatia. To start properly, a brief description of "what European Union wanted" from its Eastern candidates is given above.

1.2. The play: on administrative consolidation

In 1993, the European Council in Copenhagen formulated the accession criteria for the Central and Eastern European Candidate Countries. Bulgaria, Czech Republic, Hungary, Poland, Romania, Slovakia and Slovenia needed to prove they had achieved:

1. stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities;
2. a functioning market economy as well as the capacity to cope with competitive pressure and market forces within the Union; and,
3. the ability to take on the obligations of membership including adherence to the aims of political, economic and monetary union.

In 1993, the European Council in Copenhagen formulated the accession criteria for the Central and Eastern European Candidate Countries. According to the Presidency Conclusions, paragraph 7.A.iii, Romania (along with the rest of the acceding states) needed to prove it had achieved: 1. stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities; 2. a functioning market economy as well as the capacity to cope with competitive pressure and market forces within the Union; and, 3. the ability to take on the obligations of membership including adherence to the aims of political, economic and monetary union.

Roughly put, the accession roadmap was to be completed in December 1995, when the European Council urged candidate countries to adjust their administrative structures up to developing consolidated administrations. How or towards what national administrations were supposed to adapt remained issues of open debate. No sooner than 1996 however, the European Parliament in its Resolution reply to Agenda 2000 suggested that candidate countries should continue the process of developing the capacity and quality of administrative procedures, considering that reducing corruption is necessary (paragraph 47) and that: “an efficient and trustworthy public administration is a vital element in the accession process, especially in regard to the consolidation of rule of law [...]” (paragraph 12). Also, it recommended to candidate countries: “to establish through appropriate constitutional measures efficient local, regional and national administrative structures, to encourage the presence of private sector these tiers of government and to strengthen the financial control system for a future effective use of structural funds” (paragraph 13).

It was then that one principle useful to the consolidation of public administration was firstly established: the decentralization principle. In addition, the European Parliament spoke of efficient administrations, effective use of structural funds and implication of private sector at infra-national level – possible to translate in light of the SIGMA readings⁷⁸ (27/1999, for instance) as explicit references to the principles of efficiency, efficacy and partnership. Despite the substantial relevance of that text for defining the consolidation of public administration in candidate countries (as it belonged to the secondary legislation of the Community, and thus, to the *acquis communautaire*), the Resolution of the European Parliament C4-0371 was so far omitted by the doctrine.

In 1998, the European Commission Regular Reports on the progress of each candidate country in the accession process appeared as possible sources for explaining and interpreting the methods and techniques of administrative consolidation. In the same year, SIGMA proposed its first analysis on a “conventional administrative model: “Preparing Public Administration for the European Administrative Space”. In the context of national, administrative reforms, it clearly pointed towards democratic principles, professionalisation of civil service and democratic administrative organization. Later, in “European Principles of Public Administration” (27/1999), SIGMA again drew the picture of an “un-formalized *acquis communautaire*” (formed out of procedural, administrative principles possible to identify in Member States of the European Union).

For the case of Croatia, the Thessaloniki Agenda for the Western Balkans (2003) agreed “that the pace of further movement of the Western Balkans countries towards the EU lies in their own hands and will depend on each country’s performance in implementing reforms, thus respecting the criteria set by the Copenhagen European Council of 1993 and the Stabilisation and Association Process conditionality”. The latter were defined by the European Council in 1997 and included co-operation with the International Criminal Tribunal for the Former Yugoslavia (ICTY) and Regional co-operation⁷⁹.

⁷⁸ SIGMA was created in 1992 as a joint initiative of the OECD Centre for Cooperation with non-members economies and PHARE. Its declared mission was to “assist transition countries (PHARE beneficiaries) in increasing their administrative efficiency”.

⁷⁹ Communication from the Commission, Opinion on Croatia's application for membership of the European Union, COM(2004) 257 final.

This paper deals with the SIGMA instrument in operationalising the concept of “consolidated administration”, without limiting itself to it. As a matter of fact, the identification of European stimuli for reforming public administrations in the Central and Eastern Europe takes into account the fact that:

“For the peoples of Central and Eastern Europe, Europe symbolized the values to which they longed to return for more than a generation during the period of the Iron Curtain and the Cold War. But the return to Europe has been much more than a symbol for them: the prospect of EU membership has helped to make irreversible their choice of pluralist democracy and market economy, and encouraged them on the path of reform” (Kok, 2003:2; 8).

In addition however, it interprets R. Dahl’s theory of democratization and uses against the organization and functioning of the public administration.

1.3. The plot: on democratization of CEEC and Croatian public administrations

What does democracy stand for? Dahl’s answer to this question is twofold (1971, 1998):

- *Ideally*, it represents a system which offers (cumulative) opportunities for: effective participation; vote equality; enlightened understanding; agenda setting control; and, total inclusiveness.
- *Practically*, democracy names a system where one can identify the presence of: elected officials; free, correct and regular elections; freedom of expression; alternative sources of information; associative autonomy; and inclusive citizenship.

In fact, the practical democracy is, to R. Dahl, the modern version of democracy: that in which the *ideal* comes to compromise due, *inter alia*, to the size and quality of the current subject-unit. As such, modern democracy is the representative system holding six (minimal) institutional guarantees: officials elected (1) in free, correct and regular elections (2), by people endowed with inclusive citizenship (3), who enjoy the freedom of expression and associative autonomy (4, 5), and benefit from alternative sources of information (6)⁸⁰. To put it differently, the system capable of keeping itself open to the preferences previously formulated by its members in a free and regular manner (*inputs*) and able to deliver the expected answers (*outputs*) on impartial and non-discriminatory grounds, is democratic.

What connection is there between democracy and public administration and further on, between democracy and the European accession criteria imposed to CEEC and Croatia?

Generally speaking, public administration can be viewed as an ensemble of bodies and activities regulating and delivering services and implementing legislative, executive and judiciary mandates. Should the context for this ensemble of bodies and activities be provided for by democracy, one could even argue that the former need to obey democratic procedures. This leads us into saying that in a democratic society, the public administration should be organized and function in such way as to offer its citizens the possibility to freely and

⁸⁰ The term used by Dahl for such a system is poliarchy [R. Dahl and C. Lindblom (1953) *Politics, Economics and Welfare* (Chicago: University of Chicago Press)]. However, introducing this concept here would have suggested that a large part of the pluralist school had become the bone structure of our argument; this actually is beyond our present intentions, and as such, when discussing Dahl’s definition of democracy, we will solely refer to it as the modern, representative system as described above, in the body text.

regularly formulate and receive impartial and non-discriminatory answers to their official requests.

Identifying the common practices in the field of organization and functioning of public administration in European democratic states was a realistic objective. For achieving it, following an *in extenso* research of the doctrine, the author selected three criteria one could consider necessary and sufficient for generating the representative administrative systems and their subsequent relevant list of principles:

1. the EU membership criterion;
2. the criterion of implementing the norms and regulations of the European Charter of Local Self-Government. A document with a programmatic value, Treaty no. 122 (The European Charter of Local Self-Government) was elaborated in October 15 1985, and entered in force in September 1, 1988. Its importance in the context of the presence selection is explained by the fact that the relevant doctrine and practice considers it an European guideline for the organization and management of infra-national affairs;
3. the consolidated democracy criterion: as belonging to the European Union means achieving and consolidating the democracy, this particular criterion may seem, a first glance, a bit redundant. However, due to the focus acknowledged by this paper, repeating the selection and limit it to the case of the European Union of the 15s seemed necessary.

Deriving from 1, 2 and 3, the research sample was formed out of the European Union's Member States at the time of 30 April 2004, democratic systems with administrations organized according to the regulations provided by Treaty no. 122 and capable of offering to their citizens the possibility to formulate their preferences, make them known and receive an answer to them, with no discrimination.

The selection served as basis for the further documentation regarding the refinement of the necessary minimum of principles of organization and functioning of public administrations in democratic systems. In this latter sense, an important role was played by SIGMA papers. Reading from them, the core principles of the European administration as generated by the internal experiences of the European Union's members pointed towards: a) the predictability of public administration (*inter alia*: the rule of law, legal competence, proportionality, procedural equity, professionalism of the civil servants); b) the transparency of public administration; c) the accountability of public administration; and, d) the efficiency and efficacy of public administration.

Together with the political institutions specific to a democratic system, the norms of the European Charter of Local Self-Government and the SIGMA principles influenced, in a decisive manner, the reading of the relevant comparative studies. The final result of that research generated a list of nine principles whose presence is seen necessary (in a minimal way) for the democratic organization of an administrative system:

- 1) local self-government and decentralization; 2) subsidiarity; 3) openness and decisional transparency; 4) partnership and cooperation; 5) non-discrimination; 6) proportionality; 7) accountability; 8) efficiency and efficacy; and 9) rule of law and legality.

Are these principles traceable in the European Union's *acquis* and consequently, in the accession requirements as formulated for the CEEC and Croatia?

To anticipate the results of the research, the answer to both questions will be positive: yes, the European *acquis* does contain principles as the ones identified above, and it does make use of them during the CEEC and Croatia's accession. The sections below give notice of that.

2. SETTING THE CONTEXT: EUROPEAN ADMINISTRATIVE STIMULI FOR CEEC AND CROATIA

The minimal democratic organization of the public administration is a condition for minimally address the European Union's requirements for membership. In order to validate such a hypothesis, European policies were understood as⁸¹:

1. EC Treaties [according to EUR-LEX⁸²: Original Treaties of the European Communities (CECO, CEE, CEEA) and those following [Single European act, Maastricht Treaty and Amsterdam Treaty]); Accession Treaties for new member states; other treaties and protocols);
2. EC Legislation [according to EUR-LEX: secondary legislation represented by regulations, directives, decisions and other acts; and international agreements signed with non-Member States and international organizations and acts if the bodies created by means of international agreements). A special attention was given to secondary legislation comprised in the European Parliaments' collection: "Enlargement of the European Union"⁸³ (three volumes) and:
3. European Commission's Green and White Papers.

Based on the documents enumerated above, the research consisted of verifying the presence of the minimal democratic principles of local public administration, using a general search on EUR-LEX (English version) was generated, using selection criteria provided by the system (namely: Type of document, EUROVOC key words, word search) , on a crossed basis. For the European Commission's Green and White Papers, only the effective presence of the principles in question was taken into account.

The research was conducted in two stages: May – August 2007 and January – March 2008. The final actualization of the data was made in October 2009. Its results confirmed that the principles of a minimal democratic public administration were a minimal requirement of the EU membership. The researched texts didn't however prove any direct causal relationship between the presence of the principles and the degree of transposing the EU membership obligations, nor did they confirm that the occurrence of the principles is sufficient to becoming EU member state. It is for this reason that the "minimal" from "minimal requirement" is to be understood as "present at least, to the smallest degree"⁸⁴.

⁸¹ This self-induced limitation is grounded firstly by the quantity of the *acquis communautaire* – over 90.000 pages of legislation. Not taking into account the European Court of Justice Jurisprudence was also a personal choice, legitimized by the initial formulation of the principles necessary to a minimal democratic state on the basis of the European Court's activity.

⁸² The legislative data base of the EC, available online at: <http://eur-lex.europa.eu/index.do> (last access: 01.02.2009).

⁸³ Source: European Parliament official website: http://www.europarl.europa.eu/enlargement/archives_en.htm (last access: 29.03.2009).

⁸⁴ Examples of the presence of the nine principles in the European Union's *acquis* as applicable to the case of CEEC are presented in Iancu (2008).

To summarize the so far findings:

- 1) The European Union, seen as the totality of its Member States, recognizes the values of democratic governance, pleading in favor of openness, participation, accountability, efficacy and coherence of administrative actions, or, different put, the recognition of individual opportunities to formulate the preferences, make them public and receive a non-discriminatory answer to them.
- 2) The minimal democratic principles for organizing and functioning of the public administration are (in the convention already established): local self-government and decentralization; subsidiarity; openness and transparency; partnership and cooperation; non-discrimination; proportionality; accountability; efficiency and efficacy and rule of law).
- 3) The Union asked CEEC and Croatia to effectively transpose the *acquis*, suggesting to consolidate their administrative structures while existing the rule of law and a functional market economy.
- 4) The *acquis* [formed out of: a) Original Treaties of the European Communities and the treaties that follow; b) the legislation adopted by the European institutions for applying the Treaties regulations (Regulations, Directives, Decisions, Opinions and Recommendations); c) the jurisprudence of the European Court of Justice; d) the declarations and resolutions adopted within the European Union; common actions and positions; signed agreements; resolutions, declarations and other adopted texts within the framework of Common Foreign and Security Policy and of cooperation in the area of Justice and Home Affairs; and e) international agreements to which the Community is part, and other agreements signed between Member States of the European Union making reference to the European Union] is the result of the European integration process [seen as the interaction between national and infra-national actors aimed towards construction and elaboration of European policies at European level].

Considering those, this paper would provide data for validating the following assumptions (A):

- The CEEC and Croatian public administrations, organized according to the nine principles of democratic functioning were necessary for properly responding to the accession obligations; in other words, a minimum-consolidated public administration (capable of taking over the obligations which derive from the membership status) required minimal democratic principles of organization and functioning (A1).
- The transfer of the principles of organization and functioning of the minimal democratic administrations was achieved by means of the accession criteria, in the context of future European integration (A2).

3. TO DO – DID – DONE: THE ANALYSIS

Giving that:

1. During CEEC and Croatia's accession to the European Union (1998-2006, respectively 2005-2009), the European Commission has elaborated several Regular (Monitoring) Reports⁸⁵ on CEEC and Croatia's progress towards accession; and that:
2. The Regular (Monitoring) Reports were elaborated by the European Commission on the basis of real decisions undertaken by national authorities, international treaties and conventions already ratified and effective measures for implementing reforms; while:
3. The assessments comprised in the Regular (Monitoring) Reports were grounded on information on progress toward accession provided by the Candidate countries, as well as on the Council's discussions, European Parliament's reports and resolutions and similar studies made by different international and non-governmental organizations, the author considered the Regular (Monitoring) Reports on the CEEC's progress toward accession (1998-2006) and Regular Report on Croatia (2005-2009) as adequate sources of information for this research. To that end, the documentary investigation of RR and MR on CEEC (1998-2006) (English version) was conducted in three sessions, namely: November – December 2006; August – September 2007 and March – April 2008, while the documentary investigation on RR on Croatia (English version) ended in October 2009. The principles of organization and functioning of the minimal democratic public administration were considered present based on the working definitions already provided and the presence indicators shown in the next table (Table 3):

Table 3

Indicators for the presence of public administration principles in Regular (Monitoring) Reports on CEEC and Croatia's progress towards accession (1998-2009)

The following principles of the local public administration [...]:	are actively present giving [...]:
1. Local self-government and decentralization	<ul style="list-style-type: none"> - the existence of elected local public authorities and of local communities legally recognized as such; - the legal recognition of the rights and obligations of public authorities necessary to the management of the community's interests; - the transfer of attributions, responsibilities and resources from central authorities to local ones; - the information and consultation of preference-holders in regard to the organization and functioning of the public administration; - the inclusive participation of preference-holders to policy making; - the creation and guarantee of a legal framework necessary to the balance of preference-holders' inputs by public administration authorities.
2. Subsidiarity	
3. Openness and transparency	
4. Partnership and cooperation	
5. Non-discrimination	
6. Proportionality	
7. Accountability	
8. Efficiency and efficacy	
9. Rule of law	

The correlation between the presences of the above stated principles within the CEEC public administrations was possible due to the following interpretation scheme (Table 4):

⁸⁵ RR and MR for future references.

Table 4

**Interpretation scheme for the CEEC and Croatian Regular (Monitoring) Reports,
1998-2009**

The following formula regarding the principles of CEEC / Croatian public administrations [...]:	were interpreted as [...]:
There is a lack (absence) of [...]	1. a necessity to introduce the principles in question in the practice of the CEEC / Croatian public administrations
This [...] is necessary / required	
There is no [...]	
New rules / regulations need to be enforced	
[...] needs to be established without delay	
Progress is still needed	2. a necessity to enlarge and consolidate the CEEC / Croatian practice of the principles in question
Issues remain to be addressed	
Efforts should be made	
There is still need for	
Good progress has been made, but [efforts are still needed]	
Certain concerns persist	
Limited progress can be reported	
[...] remains / is / continues to be a problem	
Significant progress has been made and the current momentum is to be maintained	
Further improvement / efforts is needed	
Preparations in [...] should continue	
Efforts need to be reinforced / need to continue / are required	

In brief, the outcomes of the research were:

3.1. Bulgaria

Bulgaria started its accession being “on its way to satisfy the political criteria” and with the need to pay “further efforts to integrate the Roma and consolidate the protection of individual liberties” (RR 1998:7).

Local self-government and decentralization – If in 1998 no remarks on local self-government and decentralization were made for the Bulgarian case, in 1999 things changed to a slight degree. The Regular Report mentioned the efforts put in making an administrative reform and nominates Bulgaria’s attempts to deepen the decentralization process (by creating 28 new administrative regions) (RR 1999:12). No reference to local self-government existed and none in regard to decentralization until 2002. It was then that the Commission took into account Bulgaria’s interest in achieving fiscal decentralization, in order to ensure the “financial independence of municipalities” in the areas of health, education and social support (RR 2002:23). For the first time for the Bulgarian context, the Regular Report of 2004 spoke of local administration and the need for a greater clarity in setting the competences and budgets of central and local administrations (RR 2004:16). Similar ideas were reaffirmed in 2005 (MR 2005:7-8) and in 2006 (MR 2006a⁸⁶:6).

Openness and transparency – The issue of transparency was firstly raised in 1998 in connection to the privatization of several large enterprises (RR 1998:14). One year later, the Commission referred to the administrative transparency in respect to the judicial trials and the need to minimize corruption (RR 1999:12-13). In regard to the latter, it reiterated its position in 2000 (RR 2000:23) and then in 2001 (RR 2001:14; 19). In 2001 however, several positive

⁸⁶ SEC (2006) 595, 16.05.2006.

notes were also made: Bulgaria adopted a Law on Access to Public Information, whose presence, even if with flaws was considered severely positive, started the implementation of “one-stop-shops” and granted access to the public to policymaking processes, by publishing draft laws on the Internet (RR 2001:16). Progress was reported in 2002 as well, the Commission taking into account then the Strategy for Modernization of the State Administration: “Five main principles [built the Strategy]: openness to citizens, participation of social and economic partners and civil society in policy design, accountability of the administration, effectiveness of national policies and coherence of the political process” (RR 2002:21). Progress in these areas was also reported in 2003 (RR 2003:15-16), 2005 (MR 2005:7) and 2006 (MR 2006b⁸⁷:4).

Partnership and cooperation – In 1998, the European Commission considered social dialogue a requirement Bulgarian central and local policymaking authorities need to take into account (RR 1998:33). The Regular Report in 1999 continued the same address and visibly noted that unreasonably low involvement of stakeholders in general policymaking was possible (RR 1999:15). Cross-border cooperation was however noted as part of Bulgaria’s effort to comply with the prerequisites of the European regional policy (RR 1999:46). In 2000, the principles of partnership and cooperation were brought into attention when discussing the inter-ministerial coordination: a new procedure in preparing draft laws and the creation of ministerial communication streams were noted as positive developments (p.15). However, “in early stages of preparing a law, consultation with affected parties (e.g. social and economic partners) is insufficient” (RR 2000:15; 57). Progress in that respect is however noted in 2001 (RR 2001:16-17), 2002 (also in connection to establishing public-private cooperation for better tackle corruption issues, RR 2002:27; 30-31) and 2006 (MR 2006b:4).

Non-discrimination – For Bulgaria, minority issues were considered a priority even since the first Regular Report (in 1998). It was then that the Bulgarian government was made to pay attention to promote tolerance (and non-discrimination) between various ethnic and minority groups (p.11). One year later, few improvements were reported, but abuses of local authorities on religious and minority groups were seen as a real threat to a non-discriminatory local and central policymaking (RR 1999:15-16). The Regular Report in 2000 otherwise stated that: “Bulgaria does not have a legislative framework against gender discrimination or a body responsible for implementing non-discrimination policies” (RR 2000:21-22). Little progress was made in that regard in 2001 (RR 2001:23) and as stated, in 2002 (RR 2002:28;32;83), 2003 (RR 2003:25, despite the adoption of a Law on anti-discrimination), and 2004 (RR 2004:25), and later on in 2005 (MR 2005:16) and 2006 (MR 2006a:12)

Proportionality - The only reference in the Commission’s Regular reports on Bulgaria is traced in the 2002 Report, where in connection to the freedom and expression libel offences the European institution commented: “Whilst the Bulgarian Constitution guarantees freedom of expression and press freedom, libel remains an offence under criminal law. Fines remain very high for the economic conditions of the country and in comparison to fines for other crimes. Whereas in principle this could be justified, these provisions must be applied in accordance with the principles of proportionality and the right of the public to information” (RR 2002:30).

⁸⁷ COM (2006) 549 final, 26.09.2006.

Accountability – If to interpret accountability in terms of raising public confidence in the well going of Bulgarian public authorities, the Commission made its first direct comment on accountability in 1999, when referring to the judicial system. It then suggested that a visible lack of confidence coming from the citizens urged Bulgaria officials to take appropriate measures (RR 1999:12). The beginning of implementing the Civil Servants Act seems to have been providing a good input in that regard, as the Regular Report in 2000 mentioned the possible positive relevance to an impartial, legally based civil service (p.14). Still, it also noticed that the institution of Ombudsman does not exist in Bulgaria (p.21). In 2001 however, the Commission saluted the possibility for administrative acts of central and local government to be contested before the court and for citizens to be involved in the policymaking process (RR 2001:16). Despite the overall and formal statement that accountability being amongst the five principles of administrative reform in Bulgaria, the Ombudsman was still not present in late 2002 (RR 2002:28). That changed in 2003, when legal norms in this regard were adopted (RR 2003:15). And although in 2004 the Ombudsman was still not appointed (RR 2004:14), overall accountability was considered to slowly progress. Same was argued upon in 2005 (MR 2005:7), but changed in 2006, when the Commission also reported the elaboration and adoption of the Code of Administrative Procedure (MR 2006a:6).

Efficiency and efficacy – RR 1998 clearly stated the Bulgarian initiatives towards creating an efficient civil service and developing an efficient and more transparent handling of cases in the court of law (p.8). In terms of overall public administration capacity to implement the acquis, the Commission pointed however that Bulgaria did started the reforms and made coherent steps in developing an integrated information system for public administration (RR 1998:41). That was not only a point towards effective administrative working, but also, to achieving transparency. In 1999 however, the Commission evaluated rather abruptly: “administrative structures in Bulgaria remain weak [...] and both laws [on public administration and civil service] fail to address a number of key issues indispensable for a modern and efficient administration” (p.58). A similar remark (but less hard) was to be made in 2000 (RR 2000:16) and (even softer) in 2001 (RR 2001:24). In 2003, the Report appreciates the cooperation of public authorities for improving the administrative services, through one-stop-shops (p.15). The 2006 monitoring report concludes that efficiency and efficacy in public administration needs strengthening, but overall positively appreciates Bulgaria’s efforts in the areas already mentioned (MR 2006a:13).

Rule of law – As of the Regular Report in 1998, rule of law was seen as a point of necessary development (p.11). However, Bulgaria was said to fulfill the general Copenhagen political criteria, a remark reiterated between 1999-2006 (RR 1999:11, RR 2000:14, RR 2001:14, RR 2002:20, RR 2003:14, RR 2004:13, MR 2005:6, and MR 2006a:6)

3.2. The Czech Republic

In 1997, the Czech Republic started its official road to the European Union’s gates by presenting “the characteristics of a democracy, with stable institutions guaranteeing the rule of law, human rights and respect for and protection of minorities” (RR 1998:7). In 2003, one year before the actual accession, the republic had convinced the Commission that: “Overall, the administrative capacity of the Czech Republic has been strengthened considerably” (RR 2003:9). What happened in between, is briefly described above.

Local self-government and decentralization – Differently from the case of Bulgaria, the Regular Report on Czech Republic began with the topic of public administration. The Commission stressed the national developments in creating regions (Higher Self-Governing Units), but also mentioned the absence of ratification of the European Charter of Local Self-Government (RR 1998:8). The latter changed one year later, when the Commission noted the ratification (RR 1999:12). In 2000 however, the decentralization process captured the attention of the Commission: while appraising the declarative interest shown by the Czech authorities in decentralization as a main priority of the administration reform since 1998, it noted that: “important decisions remain to be taken regarding the financing and staffing of the decentralization process. Furthermore, a number of conceptual documents on specific issues related to decentralization remain to be adopted” (RR 2000:19). 2001 brought improvements through the new acts regulating regional authorities and their competences (RR 2001:18) and so did 2002 (RR 2002:21); in 2003, the Commission concluded: “As regards the reform of territorial public administration, the process of decentralization to the regional and local level is now near completion” (RR 2003:11).

Openness and transparency – As reported by the European Commission, in June 1998, the Czech Senate rejected a proposed “Act on access of Citizens to Information” on the grounds that the obligation which it placed on civil-servants to provide unrestricted information to all citizens would be impracticable (RR 1998:10). If considering the issues of openness and transparency and giving that in other cases from the Central and Eastern Europe regulations regarding the access to information were considered positive, one could assess the negative note of the statement above. However, Czech Republic adopted guidelines for a national policy on the information society, which was inspired by the European Union’s policy in the area (RR 1998:24) and in 1999 made the necessary steps to allow citizens access to public information (RR 1999:15; 34). In what concerns transparency issues, if between 1998 and 2000, the Commission made no specific references, in 2001 it stated its concern on the tangible results of fighting against corruption and economic crime, on ensuring a transparent business environment (RR 2001:15). In 2003 however, as reported in all the categories below, openness and transparency seemed to have reached the minimum requirements set by the Commission and allowed the Czech Republic to become full member of the Union in May 2004.

Partnership and cooperation – Issues under this general umbrella have not been raised too often in the country reports for the Czech Republic; in 1999 however, there are specific references to the insufficient coordination between ministries in central administration, and one could translate that in the reading of this paper as a lack of intra-administration cooperation (p.14). A similar ‘red flag’ was raised when discussing partnership priorities in the administrative capacity of the Czech Republic (RR 1999:78), although improvements appear rather soon (in 2000, p.81). References to the development of the civil society through legal instruments facilitating the emergence of NGOs were considered in 2001 and 2002 positive aspects one may see closely related to the partnership-cooperation principles of organizing public administration (RR 2001:23; RR 2002:29). Finally, in 2003, the Commission noted that social dialogue is effective and well established (RR 2003:34).

Non-discrimination – The European Commission agreed on considering that for the Czech Republic the minority issue continued to be satisfactory, but consolidation of the Roma integration should become a priority (RR 1998:10) and need to be seriously addressed (RR 1999:16; RR 2000:26; RR 2001:23). In addition, in 2002, the Commission recommended for a clear package of anti-discrimination laws to start their implementation (RR 2002:27). A

special reference was once again given to Roma population and the discriminatory policies against them (RR 2002:32). In 2003, in its final report, the Commission once again raised the issue of discrimination against Roma population and recommended tuned solutions to that (RR 2003:35).

Proportionality – Again, as in the Bulgarian case, the principle of proportionality appeared in 2002, when the Czech authorities were advised not to hinder trade by allowing disproportionate national measures in public procurements (RR 2002:55; 56)

Accountability – Accountability didn't appear as such in the Commission's Reports for the Czech Republic until 2001, when the Regular Report noted the appearance of a Code of Ethics for civil servants (whom didn't enjoy special regulations for their position then), an event the author saw connected to the issue of accountability of public administration to its stakeholders (RR 2001:17). However, "the adoption of the Civil Service Act remains a precondition for establishing an independent, professional, stable and accountable public administration" (RR 2001:18). Steps towards that direction were however made even in 2001, once the Public Protector of Rights (the Ombudsman) was elected (RR 2001:22), and then in 2002 by the adoption of the Civil Service Act which, *inter alia*, generated an increase in administrative transparency (RR 2002:21-22; 27). Still, the Commission advocated in 2003 in favor of pursuing the consolidation of an accountable, transparent and open administration (RR 2003:10-11).

Efficiency and efficacy – The Report from 1998 stated that Czech Republic needed to develop a modern effective administration, capable of applying the European *acquis* (p.36), and one year later advocated in favor of an effective policy on corruption, still missing in the Czech Republic (RR 1999:14). In 2000 and 2001, the Czech Government received the recommendation to improve the overall effectiveness of its organization and functioning (RR 2000:17; RR 2001:17). Finally, in 2003, the Commission suggested that effort should be put in consolidating the efficiency of the public administration (RR 2003:11).

Rule of law – Czech Republic had only few improvements to be accountable for in the political criterion, and therefore the rule of law was said to be respected even from 1998 (RR 1998:11; RR 1999:12; RR 2000:17; RR 2001:16; RR 2002:20; RR 2003). Consolidation was however suggested at each instance, during the time of the present analysis.

3.3. Hungary

"Hungary presents the characteristics of a democracy with stable institutions guaranteeing the rule of law, human rights and respect for and protection of minorities. [...] Further efforts to improve the situation of the Roma [are mentioned as a medium-term priority]." (RR 1998:7).

Local self-government and decentralization – Decentralization started to represent a topic in the European Commission's Reports on Hungary in 1999, when it presented the objectives set by the national government in addressing the issue of public administration reform. As such, and as agreed at the governmental level: "a new development program with the aim of enhancing public administration [will come into force] in four major areas: the development and strengthening of regional public administration, the decentralization of tasks from the national to the regional level, the modernization of services for the public and career development for civil servants including financial incentives and training" (RR 1999:11).

However, quoting the 2000 Report: “Hungary has adopted a highly decentralized form of local government, which in certain areas has led to the inefficient provision of services, and strains on local finances. [...] In the absence of a comprehensive restructuring of local government responsibilities, the government will have to adopt a flexible and innovative approach to both local government financing and the provision of services” (p.27). In 2001 however, the Commission noted that the transfer of local competencies should be rightfully complemented by a proportionate allocation of resources (RR 2001:16). Finally, the Reports of 2002 and 2003 only reiterated the issues raised above, taking however notice of the positive trends in decentralization, while linking it to the more accountable, transparent and efficient public administration system (RR 2002:21; 22; MR 2003:12).

Openness and transparency – Surprisingly when compared to cases such as those of Bulgaria or the Czech Republic, the first Regular Report elaborated by the Commission clearly stated that “institutions of the state continue to operate smoothly”, and positively noted the existence of proper legislation encouraging transparency, efficient fight against corruption and ethics of public services (RR 1998:8). Hungary’s active presence in joint initiatives such as the High-Level Committee on Information Society, could be also presented as an advantage in opening public institutions to exterior scrutiny (RR 1998:24). In 1999, still in a positive trend, the Regular Report acknowledged the Hungarian efforts to provide transparent public procurement (RR 1999:28) and visible and transparent financial activities (RR 1999:9). One year later however, the Commission raised the issue of transparency when discussing the slow improvements in the area of fighting against corruption (RR 2000:28). In 2001, transparency became an issue once again, when talking of handling of public procurement, public spending or fiscal practices; overall the Commission offered input for consolidation but did make suggestions for improvement (p. 31, 37, 42). A rather similar argument was finally raised in 2003, the Commission suggesting that consolidation of transparent allocation of public funds is necessary (p. 15).

Partnership and cooperation – One of the problems the European Commission reported in the case of Hungary was that of corruption; and as an appropriate solution to it, it suggested enhancing the already existing cooperation between different public institutions with anti-corruption profiles (RR 1998:9). Furthermore, Hungary’s efforts to develop the civil society sector were appraised, as the Commission appreciated that the new law regulating the functioning of NGOs would hopefully “contribute to strengthening of civil society in Hungary by filling one of the largest legislative gaps in the new democracy” (RR 1998:10). However, an obvious lack of coordination was presented in regard to the regional development and the financial resources targeted to address the regional policy (RR 1998:33). This particular issue was to be raised in 1999 as well, this time in the context of elaboration of a new Law on Regional Development and Physical Planning fostering cooperation between councils and regional development councils (RR 1999:46). One year later, the Report spoke of the Government’s assistance for small municipalities to integrate into micro-regions, a fact the author saw relevant for the case of cooperation and increase of efficiency in regional development (her opinion is supported by that of the Commission, as presented in RR 2000:14). However, the Commission considered that: “sustained efforts should be made to guarantee the efficiency and effectiveness of the Hungarian public administration” (RR 2000:15). Social dialogue was restructured in 1999, and a three-year program to strengthen the capacity of the social partners and to prepare for participation in social dialogue at European level was launched. The Commission expressed its concern in the actual

implementation of the program and advocated for the increase of care in dealing with social partners (RR 2000:19; 52). The efforts put in dealing with the system's weakness were however noted in 2003 (MR 2003:36).

Non-discrimination – Hungarian's efforts to foster the dialogue between Roma population and the public authorities were highly appreciated by the European Commission in its first Regular Report (1998:11). However, the financial shortcomings rather visible at the time, made the European institution to recommend further consolidation of the non-discriminatory policies applied to Roma minority (RR 1999:15; RR 2000:20; RR 2001:19-20; RR 2002:27; MR 2003:36). Moreover, in 2002, the Commission warns the Hungarian Government of the lack of a unified legislation in the area of discrimination policies (p. 27).

Proportionality – For Hungary as well, the European Commission took notice of the proportionality in 2002, when advocating that in cases where the European legislation on trade was not present, national regulations should be proportionate to the objectives pursued and would not act as barriers (RR 2002:54).

Accountability – Different from the cases of Bulgaria and the Czech Republic where the Ombudsman appeared in the early 2000, in Hungary, the activity of the Ombudsman on Ethnic and Minority Rights was presented as early as 1998⁸⁸, thus offering the basis of considering that to some extent, the Hungarian citizens' were given the possibility to protect themselves in court against public authorities' eventual abuses (RR 1998:11; RR 1999:15). The activity of the Ombudsman on Data protection was, at its turn, presented in 1999 as a positive accomplishment of the Hungarian Government (RR 1999:61). In 2000, discussing the Code of Ethics for central and local authorities or the activity of the Ombudsman, the Commission once again positively raised the issue of accountability (RR 2000:16-17). Rather the same could be argued for 2001 (RR 2001:15).

Efficiency and efficacy – Discussion on their presence in the reforms aimed at consolidating the public administration was raised as of 1998, in direct connection to the fight against corruption and later, in applying the *acquis communautaire* (RR 1998:8; 22). On the ability to assume the obligations of membership, the Commission noted that: "Hungary continues to approach the approximation process in a balanced manner [...].The objective of effective application, rather than simply transposition, is being meaningfully pursued" (RR 1999:27). In 2001, once a new law on civil servants was enacted, the Commission rightfully considered it stood for a more accountable and efficient driven reform of public administration (p.16). Finally, in 2003, the Commission mentioned that efforts were still necessary for an efficient management of European funds and public affairs (MR 2003:10;12).

Rule of law – Since 1998, the Commission acknowledged that Hungary fulfilled the political criterion and that it presented institutions guaranteeing the rule of law (RR 1998:7). However, consolidation of democratic practices was constantly supported by the Reports of the European Commission (RR 1999:11; RR 2000:13; RR 2001:15; RR 2002:20).

⁸⁸ There were four Parliamentary Ombudsmen in Hungary. They cover civil and political rights, national and ethnic minorities, education, data protection and freedom of information (RR 2001:15). No data on the current status were considered relevant to be presented in this paper.

3.4. Poland

In 1998, Poland started its way to accession with presenting “the characteristics of a democracy, with stable institutions guaranteeing the rule of law, human rights and respect for and protection of minorities” (p.8). How did its road develop is considered in the lines below.

Local self-government and decentralization – Although the Regular Report of 1998 clearly stated that the reform of the public administration organization would enter into force in 1999, the author considered the principle of local self-government and decentralization as already present and in need of consolidation, giving the existence of a law in that domain (RR 1998:9). According to the latter, the administrative system in Poland was to be structured into three levels of government: regional, county and commune, acknowledging the need for financial decentralization. That was exactly what happened in 1999, when the Commission noted the success, but reminded that: “the successful implementation of the new administrative structure will require an adequate allocation of financial revenues and of revenue raising powers”, and “a clear distribution of responsibilities and procedures between and within the central and the self-governmental administration” (RR 1999:13, respectively 60). Same comments were made also in 2000 (RR 2000:15), and 2001 (RR 2001:78). The year 2002 brings the strengthening of the local self-government in Poland in terms of both political and financial decentralization (RR 2002:22-23), but 2003 reminds the Polish authorities that the consolidation of local reforms is imperative (MR 2003:14).

Openness and transparency – According to the Regular Report from 1998, Poland participated in the joint high-level committee on information society and actively supports the development of the information society. In this regard, and giving previous connections on the subject, as well as the warding of the Commission, one could assess that within the Polish context, openness and transparency were given the right framework for consolidation (RR 1998:26). Further developments were however made in 1999, when the newly enacted law on Civil Service provided the right framework for a more accountable, efficient and open system for the public administration’s human resources (RR 1999:14). The same did the newly enacted Law on public information (in 2001), whose successful implementation was called for by the European Commission (RR 2001:17). Positive remarks in this regard were actually provided for by the Regular Report in 2002 (p. 27) and the Monitoring Report in 2003 (p. 13), which also announced the existent (and to be addressed) weaknesses of the system.

Partnership and cooperation – Quite interesting again, the Polish case in terms of public-private partnerships offers a clear picture of success; as presented by the Commission: “Private-public partnerships are increasingly promoted as possible modes of infrastructure financing, but especially in the area of urban and municipal renewal are faced with uncertainty about the financial implications of public administration and territorial reform” (RR 1998:20). Social dialogue, on the other hand, requires strengthening, especially in regard to employers’ organizations (RR 1998:33; RR 1999:46; RR 2000:57). In this sense, as of 2001, Poland reorganized its tripartite dialogue, a brief description in this regard being provided for in 2001 and 2002 (RR 2001:66; RR 2002:85-86). Finally, in regard to this issue, the Commission made further recommendation for improving the existent system (MR 2003:40).

Non-discrimination – In contrast to other countries of the region, Poland had no stringent issues on discrimination matters; in fact, the Regular Report in 1998 commented: “The

respect for and protection of minorities continues to be assured” (pp. 12-13). Same note was made in 1999 (p. 17), 2000 (p. 21 – with the addition: “There is no overt policy of discrimination on the part of the Polish government towards the Roma”), 2001 (p. 24) and 2002 (p. 31). Due to these considerations, although consolidation of non-discriminatory practices was possible and done, the author considers the case of Poland a specific one (in the region) and deals with it accordingly.

Proportionality – This principle became visible in the case of Poland in 2001 and 2002, when the Commission discussed the issue of audio-visual policy and the need for proportionality of measures promoting works originally produced in Polish (RR 2001:77; RR 2002:103).

Accountability – In 1998, the Commission took notice of the Polish efforts in creating an efficient administration by regulating the civil servants status; unfortunately, it underlined the lack of relevant provisions and so, indirectly, warned national officials on the need of developing the public administration’s accountability (RR 1998:10). These provisions may be also corroborated with the information provided for by the same report when dealing with the need to enhance the fight against corruption (p.10) (same consideration were given in 1999, p. 15). However, as the public system was actually subject to a Law on Access to Information (under revision in 1998), it could be argued that in Poland, in 1998, accountability was in place, yet it needed consolidation (RR 1998:12). This conclusion is strengthened further by the existence of an active Ombudsman, whose activity is briefly described in 1999 (RR 1999:16) and 2000 (in connection to instances of tracing inefficiency in the Polish judicial system, RR 2000:17). Still in 2000, the Ombudsman was described as an actor able to enhance transparency of public life and guarantee the right to information in order to contribute to fighting corruption efficiently (RR 2000:20). In regard to this last assumption, the Regular Report in 2001 showed that corruption was still an issue of concern (RR 2001:20), yet reiterated its consideration on the role of the Ombudsman (RR 2001:23). The organization of training on civil service ethics and the enhancement of the role of ombudsman in dealing with the civil servants’ activities could be representative examples for the consolidation of public administration’s accountability (RR 2002:24).

Efficiency and efficacy – These principles were easy to find in any of the Regular Reports addressing the case of Poland. That was not a consequence of their absence, but a result of the Polish successes in achieving the needed criteria. As such, specific reference to their presence can be found mostly when reading on the development of all the other principles covering the present research.

Rule of law – Giving that Poland fulfilled the political criterion even from the beginning of its candidature, rule of law was a principle already enshrined in the Polish administration. References that follow solely relate to the need of consolidation of the rule of law practice: RR 1998:8; RR 1999:12; RR 2000:15; RR 2001:16; RR 2002:21).

3.5. Romania

“Developments confirm that Romania fulfils the Copenhagen political criteria. Nonetheless, much still remains to be done in rooting out corruption, improving the working of the courts and protecting individual liberties and the rights of the Roma. Priority should also be given to reform of the public administration” (RR 1999:11).

Local self-government and decentralization – The 1998 Commission’s Report did not contain explicit references on the principles of self-government and decentralization as concrete European expectations for Romanian administrative reforms; in this sense, actually, pages 44 and 45 only briefly described the internal changes of the administrative system and made no further comments. In 1999 however, the Commission considered that in the context of economic difficulties, the restructuring and transfer of responsibilities towards local authorities as accomplished one year ago had generated visible deterioration of the child care protection system (RR 1999:11, 63; RR 2000:20). Same report encouraged the existent financial decentralization measures (RR 1999:63), draw attention to the need of consolidating the local capacity for collecting own revenues (RR 1999:26) and took notice of the decentralization trend in health system. In 2000 the Commission saluted the stable character of the Romanian decentralization legal framework; although financial transfers from central authorities to local ones were said to need further clarification (RR 2000: 16). Same opinion is to be found in 2001 (RR 2001:17) and 2002 (RR 2002:22, 24, 44), although RR 2001 (p. 19) stated that: „difficulties have continued to arise from the transfer of new responsibilities to local authorities (e.g. education, health, institutionalized children) without a corresponding transfer of resources”. In 2003, the Commission resumed its interest in the decentralization process and made specific reference to the considerable lack of transparency in achieving financial transfers from county to local government’s level (RR 2003:17); a situation which might endanger the local self-government itself. In 2004, the transfer of responsibilities to local authorities was still not been matched with an adequate transfer of resources. The ability to raise local revenues remained limited and legislation governing financial transfers to local government still lacked transparency. However, “the Romanian authorities have made considerable efforts to develop a strategy for managing the process of decentralization in a transparent and stable manner” (RR 2004:18). In 2005 Commission disapproved with the still lacking local financial autonomy (MR 2005:8,25), while in 2006, it solely refers to the legal aspects of decentralization and makes no further comments on it’s need to consolidate (MR 2006a⁸⁹:5,39-40; MR 2006b⁹⁰:39).

Openness and transparency – According to RR 1998, the Romanian administrative system was characterized by administrative weakness, secret of public information and deterioration of equitable application of law (RR 1998:9). Still, adopting the National Strategy for Informatisation and fast implementation of the information society (in February 1998) appeared as a possible step in increasing the accessibility and efficiency of the public administration (RR 1998:26). In 1999, Commission positively noticed the legal development of the freedom of expression, making however a point when advocating against the latter’s limitations (the case of media censorship was then in debate: RR 1999:17; RR 2000:21). Still on the issue of openness, the Commission suggested the need to increase the visibility of the Ombudsman (RR 1999:17) and the non-discrimination of Roma population in policy making (RR 1999:19). Still in 1999 and again in connection to the citizens’ participation to policy making, the creation of the Economic and Social Council in 1997 and development of a social dialogue legal framework was positively noticed (RR 1999:18, 46, 51). In regard to the transparency as a principle of local public administration, the Commission enumerated it amongst the prerequisites of an efficient financial management (RR 2000:16-17, 30 and RR 2004:39). However, in direct reference to policy making (RR 2000:31) and privatization of public enterprises (RR 2000:49), it was considered absent. In the same vein, still in 2000, the

⁸⁹ SEC (2006) 596, 16.05.2006.

⁹⁰ COM (2006) 550 final, 26.09.2006.

free access to judicial documentation was considered to be restricted (RR 2000:16, but also RR 1999:13). In 2001, introducing regulations on e-administration was considered a positive evolution of the administrative system towards openness and transparency (RR 2001:19); still, the absence of norms implementing the constitutional right to information, and ensuring the transparency of local fiscal policies were considered major administrative weaknesses (RR 2001:22; 35). One year later, the Commission advocated for the consolidation of the transparency of policy making processes (RR 2002:22), although progress in this regard was made once the law on free access to information was enacted (RR 2002:23,27,32; RR 2003:26). On the same topic of free access, with special reference to civil service, RR 2003 reaffirms the positive evolution of Law no. 188/1999 on civil service (RR 2003:15) and, in direct connection to the law on transparency of the decision-making process, the Commission concluded that: “if implemented, that legislation could significantly improve the decision making process” (RR 2003:16-17). Same opinions are to be found in RR 2004, where only additional references to local implementation of the quoted legal texts were to be found (RR 2004:16). Still on the local level, RR 2004 recommended that the allocation of resource transfers to local authorities to be made in a transparent manner (RR 2004:18). Monitoring the implementation of openness and transparency of public activities remained of interest to the Commission in 2005 and 2006 (MR 2005:9,12,16; MR 2006a:30),

Partnership and cooperation – In 1998, the European Commission took evidence of the national social dialogue legal framework and of the existent local structures for cooperation (RR 1998:27) and noticed the intensification of the relationship between citizens, economic actors and administration (RR 1998:46). Romania was however asked to pay attention to the need of opening the public sector towards privatization and involvement of all private actors interested in public service delivery (RR 1998:11). One year later and relevant to this latter point, the Commission took notice of the progress made and asked for its consolidation (RR 1999:25). Still in 1999, RR mentioned the absence of formal provisions on institutional cooperation between central and local governments in the field of consumer protection (RR 1999:74). RR 2000 reiterated the need for a tripartite dialogue in policy making (RR 2000:23, 59) and asked for the strengthening of the institutional cooperation between central and local administration (RR 2000:39). Keeping the same line of argument, the Commission also advocated for the strengthening of the regional managerial capacity through encouraging an efficient and partnership based process (RR 2000:70; RR 2001:80; RR 2002:102; RR 2003:94; RR 2004:115). In 2001 and then again in 2002 and 2004, the need for consultation (RR 2001:18,28,65,73,76) and social dialogue in policy making (RR 2002:35,83; RR 2003:29; RR 2004:92, 144, 149) was reinforced. In addition, RR 2002 called for actions in enhancing the inter-institutional cooperation between the Ombudsman and public administration institutions (p.29). Finally, RR 2003 reiterated the problem of cooperation and sanctioned the trend of consulting local authorities in formulating legislative drafts relevant to local communities (p. 17).

Non-discrimination – In 1998 (RR 1998:12), and with direct reference to Roma and Hungarian minorities, Romania received several red flags being called to offer opportunities to all its citizens to formulate, express and receive an official answer to their preferences, in a non-discriminatory manner. One year later, the Commission positively noted that the law on local public administration was amended as to create the obligation of civil servants working directly with the public to speak the language of an ethnic minority in areas where the minority represented at least 20 % of the population (RR 1999:19). RR 2000 cited the positive development of the Romanian administrative reforms, including there the civil servants’

obligation to non-discriminate on grounds of nationality, race, ethnicity, age, gender or sexual orientation (pp. 18,59), but warned the officials on the presence of gender social discrimination (pp. 23-24) and ethnic, general discrimination (for Roma population) (p. 87). Similar to 2000, RR 2002 asked for consolidation of Roma non-discriminatory administrative measures (pp. 35, 37). Finally, RR 2003 and 2004 concluded that serious progress was made in what concerned the ethnic discrimination in Romania and that its consolidation at central and local administrative level was necessarily required (RR 2003:32; RR 2004:29-30, 32). The Reports of 2005 and 2006 reaffirmed at their turn, the inefficiency of implementing the non-discrimination principle in the case of Roma population (MR 2005:19; MR 2006a:12; MR 2006b:6).

Proportionality – As in the case of Bulgaria or Czech Republic, instances of the proportionality principle can be traced in the Commission's Reports on Romania. Both in 2001 and 2002, it was then that in connection to probation and penal reform, the Commission stated that police officers should ensure proportionate actions against law infringements (RR 2001:30; RR 2002:20; 24; 37).

Accountability – RR 1999 (p. 56) discussed of the need of regulating accountability, impartiality and legality of civil service. One year later, positive notes were being made once the Civil Service Statute was enacted (RR 2000:16). However, the lack of specific regulations allowing the access to public information continued to create problems to the overall real accountability of the administrative authorities (RR 2001:22). In contrast, the creation of the Ombudsman and its activity to hold accountable all administrative authorities that might have infringed preference-holders rights and liberties was seen as a good indicator for enhancing the public administration's capacity to adequately answer to the received inputs (RR 1998:9; RR 1999:17; RR 2000:22; RR 2001:23; RR 2002:29; RR 2003:22-23; RR 2004:24). In addition, RR 2004 recognized that: "free access to public information, proved to be an important mechanism promoting public accountability" (p. 26) and called for an institution to hold the explicit responsibility in effectively implement the law on free access to public information.

Efficiency and efficacy – These two principles were a constant presence in the reports on Romania and almost always were related to the administrative reforms and the need to consolidate the institutional administrative capacity (RR 1998:10, 20; RR 1999:61,71; RR 2000:41,69; RR 2001:30,50; RR 2002:52,74,85; RR 2003:34,47; RR 2004:18). As such, the Commission warned on the need to increase the efficiency of national efforts in waste management (RR 1999:53) and those directed towards reforming the justice and home affairs (RR 1999:54, 56). In addition, and linked to the imperative of increasing the efficiency of the Romanian Ministry of Finance, the Commission identified several prerequisites for sound, efficient institutions: independence of administrative structure, human resource sufficiency, presence of technical infrastructure and strict internal regulations (RR 1999:64). The need to make local policy making coordinate more efficiently was one of the topics included in RR 2000 (pp.15-16); still here, an efficient local financial management was said to exist only if transparency, impartiality and stability were to be achieved (RR 2000:16). Efficacy on the other hand was named in the same RR 2000 in direct connection to the legislative consolidation of adequate and strategic institutional practices. Later, between 2005 and 2006, it was raised again, in connection to overall institutional reforms (MR 2005:10; MR 2006b:10).

Rule of law – a principle fundamental to the political criteria, rule of law was considered present in Romania's case in all the reports made public by the European Commission (RR 1998:8; RR 1999:11; RR 2000:14; RR 2001: 16; RR 2002:21; RR 2003:14; RR 2004:15). Its consolidation however represented a constant preoccupation for the Commission, the latter giving notice of the need to clearly separate the legislative from the executive by reducing the number of Governmental simple or emergency ordinances (in RR 1998:8; RR 1999:12; RR 2000:14; RR 2002:129; RR 2003:16; RR 2004:15).

3.6. Slovakia

“Slovakia does not fulfill in a satisfying manner the political conditions set out by the European Council in Copenhagen, because of the instability of Slovakia's institutions, their lack of rootedness in political life and the shortcomings in the functioning of its democracy” (RR 1998:7).

Local self-government and decentralization – First references to the decentralization and local self-government principles in Slovakia were officially made in 1999, when the Commission noted that the European Charter of Local Self-Government had been signed, but not yet ratified and that the governmental initiative of reforming the public administration and developing a decentralization strategy needed development (RR 1999:14): “a positive signal was, however, the adoption of a strategy for the reform of the public administration and decentralization [but further work would be required in order to] develop a comprehensive approach to reform” (RR 1999:58). In 2000 the European Charter of Local Self-Government was ratified and the Commission suggested that the Law on Local Authority Administration was needed (RR 2000:16). The year that followed brought the required improvements (RR 2001:15), once the Constitution was amended, the administrative reorganization was made, a package of laws relating to decentralization of public administration reform was enacted and the law on competencies transferred a considerable number of functions from state to regional level and set the legal conditions for fiscal decentralization (RR 2001:16, 24). In 2002, the implementation of the public administration reform finally started considering self-administration as its key element (RR 2002:21). Overall progress within this direction was then recommended also in 2003 (MR 2003:11).

Openness and transparency – RR 1998 reported that the Government exercised a high degree of control over the public radio and television networks (p.11). Closely linked to the privatization of former public enterprises, the same report suggested that an important number of such privatization had lacked transparency and fairness (RR 1998:16, 18), an aspect to be seriously improved in 1999 (RR 1999:23). Still the lack of transparency but this time in connection to the fight against corruption was also noticed in 1999 (RR 1999:15) and 2000 (RR 2000:17). It has to be pointed however that the Slovakian government took into consideration a Strategy for the Implementation of the Information Society Policy, as well as a Report on the Implementation Global Information Networks, thus supporting the development of an informational society and, if to consider the latter's essence, the principle of administrative openness (RR 1998:26). Furthermore, in 2000, the Commission noted that “a law on free access to information was enacted. Based on the principle that any information that is not classified as confidential is of public use, this law should have contributed to improving transparency in public life and participation by civil society and to facilitating the fight against corruption” (RR 2000:18). This specific regulation, we might add, was also a significant development for increasing the openness of local policy making in Slovakia.

Finally, in 2001, the Commission spoke of the need to make the administration further transparent (RR 2001:17), an idea reaffirmed in 2002 also (RR 2002:22). Again, in 2002 and later, in 2003, progress on implementing the law on free access to information was evident (RR 2002:22, 25). Future efforts in ensuring transparency were required still in 2003 for the area of judicial system (MR 2003:12).

Partnership and cooperation – According to the European Commission’s Report, in 1998 several tensions were known to the social dialogue in Slovakia (p.11, 32). One year later some of them had been already addressed and progress was made (RR 1999:16, 46). However, in what concerns the regional policy, Slovakia was warned to pay attention “to the legal framework, co-ordination amongst ministries and decision making in the lead ministry, to a clear separation of administrative and political functions, to the management capacity and partnership with regional and local partners, social partners, small and medium size enterprises and the business community” (RR 1999:47). A similar remark was to be made also in 2000 (RR 2000:65). Still in 2000 and with special reference to the partnership principle and the need to involve preference-holders into policy making processes, the Commission noted that: “Third sector representatives had been closely associated with the preparation of various reforms and their initiatives had increasingly benefited from financial support. In this improved climate a challenge for the future development of the NGO sector in Slovakia would be to sustain and improve its constructive cooperation with the political powers, while preserving the necessary intellectual and political independence so as to contribute to the furthering of democratic and social progress” (RR 2000:19; similar considerations were made also in 2001 – RR 2001:73). Still in 2000, the Commission was positively noticing that the social dialogue in policy making was improving (RR 2000:20, 53). Same remarks were maintained in 2001 (RR 2001:61), 2002 (RR 2002:80, 82) and finally, in 2003 (MR 2003:33).

Non-discrimination – Starting with the year 1998, Slovakia has known several difficulties in complying with the political criteria, the non-ethnic discrimination being one of the matters of concern at European level. In this regard actually, RR 1998 suggested that the issuance of an amendment to the Municipal Election Law and to the Municipal Establishment Law clearly discriminating ethnic minorities was a serious issue in need to be promptly addressed by a state striving to enhance its democratic practices (p.8). The same report mentioned that no progress in non-discriminating the Hungarian and Roma minorities was being made, yet noted that some Roma families did benefit from the legal provision addressed to less favored families (RR 1998:12, 26). One year later, RR 1999 stated that part of the issues on non-ethnic discrimination were addressed (pp. 12-13), in this regard the Law on the Use of Minority Languages in Official Communications being nominated as a positive development. To elaborate further on the latter, persons belonging to minorities were given the opportunity to use their language in official communications with public administrative organs and organs of local self-administration in those municipalities where the minority constituted at least twenty per cent of the population (RR 1999:17). Positive remarks were also given to the inclusion of Hungarian minority representatives inside the governmental structures (RR 1999:17); however, in what concerns the Roma population, further assistance was still heavily required (RR 1999:17; RR 2000:20). In fact, the implementation of the Law on the use of minority languages failed to prove its effective implementation (RR 2000:20) and this, amongst others, brought the Commission to state that “more attention, including attention at local administration level, needs to be paid to protecting minorities and to changing deep-rooted discriminatory attitudes in society and, in particular, to improving the living and social

conditions of the Roma population” (RR 2000:21-22). Same RR 2000 slowly moved the attention to another side of the discrimination behavior, namely the one targeted against women. As such, the Commission took notice of the developments Slovakia had made in what gender discrimination was concerned by signing the Optional Protocol to the Convention on the Elimination of all Forms of Discrimination against Women (RR 2000:19, 52-53). In 2001 and 2002 further overall positive developments in the area of non-discrimination were being marked, yet attention was once again raised, for instance, on the situation of Roma population (RR 2001:20-23; RR 2002:27, 31). Actually, in this respect, following the decentralization strategy of the Slovak administrative reform, municipalities and regional self-governments had acquired new competencies in such areas as regional development, education and social implementation; as such, “a number of cases the discriminatory attitudes of local communities towards the Roma made proper implementation of the projects very difficult, underpinning and perpetuating the segregation of the Roma minority in some parts of the country” (RR 2002:31). Reform efforts in this regard were asked to be continued and reinforced as a matter of priority (RR 2002:33; MR 2003:34).

Accountability – Serious concerns over the lack of civil servants’ accountability to the preference-holders were raised even from 1998, when the Commission noted that in Slovakia, the absence of a civil service law made the administration vulnerable to the political interference (RR 1998:10, 38). Same remarks were made a year later, when the Commission stated: “the current legal framework did not provide the basis for a stable, politically neutral and highly professional civil service” (RR 1999:57). In 2000 however, the Civil Service Law was finally drafted, yet political tensions kept it away from being enacted; and so: “politicization, patronage and lack of accountability were still features of the [Slovak] public administration” (RR 2000:16). The next year brought severe changes: a civil service law was finally adopted: [its provisions] “combining the aims of fostering the creation of a professional, reliable, impartial and politically neutral civil service on the one hand and ensuring good social and economic conditions for civil servants on the other” (RR 2001:16) and the Ombudsman office to help protect fundamental rights and freedoms in cases where public administration bodies had violated the legal system or the rule of law was created (RR 2001:15, 20). Accountability finally became a subject for consolidation: The Law on the Public Service and the Law on the Civil Service, aiming at creating a professional, impartial, politically neutral, efficient and flexible civil and public service, entered into force in April 2002 and codes of ethics for civil servants, employees in the public administration and elected representatives of self-government units were adopted in the same year (RR 2002:21-22, 25). In 2002 the Ombudsman office also became actively involved in promoting the values of accountability for the Slovak democratic system (RR 2002:27).

Efficiency and efficacy – RR 1998 spoke of the need for a more effective fight against corruption (p. 10); a more effective bankruptcy law (p.17) and also, *inter alia*, an effective application of the four freedoms (p. 21) all of these in close connection with the success of an administrative reform. Same remarks were actually kept in 1999 (RR 1999:39). In 2000 however, the Commission shifted the what could be called “economic” approach to efficiency and efficacy and called for the appearance of an efficient civil service, linking its former presence to the chances of Slovakia succeeding in enjoying an early accession to the European Union (RR 2000:16). ‘More efficiency and efficacy’ (be it at local, regional or central level) became the key suggestion the Commission made to the Slovak administrative authorities in 2001 (RR 2001:69, 73, 91), 2002 (RR 2002:33, 82, 124), and respectively, in 2003 (MR 2003:23, 30, 33)

Rule of law – RR 1998 questioned the existence of a functioning democracy, giving the political instability generated, amongst other, by the existence of inconsistent constitutional provisions (p. 9); in the wording of the cited report: “During the period July 1997 to end September 1998 there had been a lack of stability in the institutions guaranteeing democracy, the rule of law and protection of human rights” (RR 1998:13). One year later however, the situation improved drastically (RR 1999:11-13), and Slovakia was recognized since as a candidate country fulfilling the political criteria (RR 1999:18; RR 2000:14; RR 2001:15; RR 2002:20).

3.7. Slovenia

“Slovenia presents the characteristics of a democracy, with stable institutions, guaranteeing the rule of law, human rights and respect for and protection of minorities” (RR 1998:7).

Local self-government and decentralization – Reading the Regular Report of 1998, the Slovene public administration could be characterized as centralized, rather passive in approaching (the needed) reforms, yet (partially) efficient and effective: “Public administration reform is underway, but progress in this area has been slow” (RR 1998:8), and “debate over the issue of decentralization has been launched. In general, there remains clear scope for improvement of the efficiency and effectiveness of public administration” (RR 1998:40). In 1999 the opinion remained unchanged (RR 1999:59), although the Commission indicated the fact that there was an existent law on local self-government units (p. 17); however, the reference made no further point.

Openness and transparency – Although Slovenia, as other representatives of the region, supported the development of the information society as early as 1998 (RR 1998:24), no direct reference to any improvements relevant to the public administration area were made (however, discussions of non-transparency in the case of state-aid practices did occur - RR 1998:23). The situation changed in 1999, when the Commission noted that the tasks of the Government Informatics Council (involved in the development of the information society) were widened within governmental bodies, public institutions and other organizations carrying out public duties (RR 1999:35). In addition, in July 2000, Slovenia adopted a directive on transparency in the information society (RR 2000:37). One year later, the Commission argued that within the context of public administration reform, enactment of the Law on Wages in the Public Sector generated an overall increase of transparency (RR 2002:21). In addition, “amendments to the Law on Administrative Procedures introduced in May aim at making procedures more efficient and user-friendly though accelerated exchange of information between state institutions and increased use of e-administration” (RR 2002:21). Finally, in 2003 and within the topic of public administration reform, the Commission raised the issues of public accountability, and the right of citizens to access public information, considering that the two would contribute to the improvement of administrative openness, transparency and efficiency (MR 2003:11).

Partnership and cooperation – In terms of partnership and cooperation in policymaking, in Slovenia, the Regular Report of 1998 stated that: “At national level the tripartite social dialogue functions well and social partner organizations are extensively consulted on relevant new draft legislation. A new framework law on labor relations is still needed” (p. 33). One

year later, the Commission reported that trade unions are successfully involved in the wage policymaking and reconfirmed that social dialogue is fruitful in the Slovene case (RR 1999:17;47). Same provisions were reinforced in 2000 (p. 18), 2001 (p.20) and 2002 (p. 26). In addition, the Regular Report of 2002 spoke of the active NGOs nurtured by a government funded centre (p. 26). In 2003, the Commission also took into consideration the inter-ministerial cooperation and as such provided feedback to the Slovene e-government practices (MR 2003:12).

Non-discrimination – According to the Regular Report in 1998, Slovenia respects the fundamental rights and does exhibit the (overall) necessary conditions for non-discriminatory policymaking (RR 1998:12). Same provisions are to be found in the Monitoring Report of 2003 (pp. 17, 30). However, improvements in the conditions set forward to the Roma population were required (RR 1999:17; RR 2000:19; RR 2001:21; RR 2002:27).

Proportionality – The principle was cited for the first time in the Regular Report of 2001, in connection to the use of language on company law. In the words of the Commission: “The Slovenian legislation on company law has been largely aligned with the *acquis* with the adoption of the Act Amending the Companies Act. However, the practical implementation of the provisions on the use of language will have to be examined in the light of the principle of proportionality” (RR 2001:45). No further references were made after.

Accountability – Within the context of a slow process of reform in public administration, the 1998 Regular Report makes reference to the accountability principle, and presents the characteristics of the (efficient) institution of the Ombudsman (RR 1998:11). Same could be argued in the case of the Regular Report in 1999 (p. 16), 2000 (p. 16), 2001 (p. 20), 2002 (p. 24) and 2003 (p. 11). In 2000 however, giving the adoption of the Law on General Administrative Procedures (September 1999), applicable procedures and the competences of the state and local self-governing organs were clarified. Still, according to the Slovenian Ombudsman, no progress has so far been made in better defining and protecting the rights, benefits and obligations of the individual in relation to the public administration. “An amendment to the law aiming at improving the protection of individual and social rights was adopted in July. Remaining problems include the implementation of administrative supervision and the long processing times” (RR 2000:14). In 2001, the Code of Conduct for civil servants was enacted, yet no law on the actual civil service existed (RR 2001:16); however, different from the case of other countries in the region, corruption in the public system seemed hardly a problem (RR 2001:17; MR 2003:13). 2002 brought along the adoption of the law on Civil Service (to enter into force in 2003), and reaffirmation of the principles of legality, reliability and predictability of actions of the civil servants (RR 2002:20).

Efficiency and efficacy – As in the case of Poland, these principles are traceable in any of the Reports issued by the Commission between the timeframe of analysis. As such, specific reference to their presence can be found mostly when reading on the development of all the other principles covering the present research.

Rule of law – As in the case of most of the countries present in this research, rule of law is under consolidation in Slovenia as well. Statement to that, are the following references: RR 1998:7; RR 1999:12; RR 2000:13; RR 2001:15; and RR 2002:19.

3.8. Croatia

In its Opinion formulated on Croatia's readiness to pursue the accession to the European Union, the Commission considered it to be a „stable democratic institutions which function properly respecting the limits of their competences and cooperating with each other. [...] There are no major problems over assuring the rule of law and respect for fundamental rights. However, Croatia needs to take measures to ensure that the rights of minorities, in particular of the Serb minority, are fully respected” (RR 2005:10).

Local self-government and decentralization – Despite the cases of some CEEC, the first Report on Croatia fully considers the issue of decentralization and local self-government. In fact, the Commission acknowledged the slow tempo of the administrative reforms and the lack of commitment to reforming of the Croatian Government, but agreed on considering that „work on the decentralization of state administration to local and regional authorities has continued” (RR 2005:13). Similar notes were made one year later (RR 2006:6-7). In addition, the Commission noted that Croatian authorities made no planned and concerted effort to introduce clear and transparent rules and procedures with regard to elections and the forming of governments at the local level (RR 2006:7). In 2007, the Commission mentions for the first time the concept of local governance, where progress in addressing weaknesses in the functioning of local government was made (RR 2007:8); one year later, the same European institution welcomes the ratification of the European Charter of Local Self-government (RR 2008:7). However, „there have been considerable delays in the implementation of Croatia's programme for decentralization. Currently there is insufficient capacity of public administration at national, regional and local level to manage decentralization reforms, and to ensure that such reforms actually meet their objectives. [...] The local government level is not properly organized and their interest organization remains weak” (RR 2007:8). In 2009, however, the Government adopted a National Training Strategy for Officials and Servants in Local and Regional Self-Government Units 2009-2013, which aimed at improving the capacities of local self-government in providing decentralized services to citizens (RR 2009:7-8). Progress is further required.

Openness and transparency – In connection to the national public administration reform, in its first Report on Croatia's progress towards Accession, the European Commission expressed its doubts, that the current legislation would lead to the professional, efficient, accountable, transparent and independent public administration (RR 2005:13). The issue of transparency appeared several times in the same document, one note in particular being addressed to the issue of corruption: „Croatia should establish in every part of the public administration a body in charge of investigating corruption, working on the basis of accountable and transparent rules” (RR 2005:87). One year later, in 2006, similar remarks were being made (RR 2006:8). In 2008 however, Commission refers to a rather slow, but existing progress in the fight against corruption and even advocates in favor of an effective public administration reform (RR 2008:53). Similar comments were finally made in 2009 (RR 2009:54).

Partnership and cooperation – In connection to the issue of social dialogue, the Commission suggests even as early as 2005, that the latter is „quite developed, both between the State and the social partners and between the State and other economic and social actors within a multipartite process”. However, as suggested, „there is scope, however, for improved autonomous bipartite social dialogue and greater involvement of social partners in decision-making” (RR 2005:77). Similar remarks were made one year later, in the Regular Report of

2006 (RR 2006:44). As for the implication of the civil society in policy-making, the Report of 2008 notes that while the latter: „continues to play an important role in the promotion and protection of human rights, democracy and protection of minorities, it remains rather difficult to influence policy debate and it is relatively weak in analytical capacity” (RR 2008:11). Finally, in 2009, whereas larger progress has been reported in terms of social dialogue, „representativeness criteria for participation of trade unions in collective bargaining have not been adopted yet and bipartite social dialogue is not yet sufficiently developed. Also, the capacity of social partners continues to be somewhat weak. Preparations in this area are on track” (RR 2009:46).

Non-discrimination – Even from 2004, in its Opinion, the European Commission agreed that Croatia needs to properly address the issue of non-discrimination in policy-making. In fact, the Report of 2005 clearly mentioned the presence of problems in ensuring an impartial judicial system („notably in the area of war crimes trials where ethnic bias against Serbs in local courts persists”, p.16); additionally, it advocated for the elaboration of a comprehensive national strategy and action plan on the suppression of all forms of discrimination (pp.19; 25-26). In 2006, the Commission reiterated the need of Croatian authorities to start address the issue of non-discrimination; in the wording of the European institution, „national minorities are still generally perceived in the media as separate entities and not as an integral part of society” (RR 2006:11). Unfortunately, one year later, in 2007, the situation did not improve: „the existing anti-discrimination legislation were not being applied vigorously” (RR 2007:12). Similar note was made in 2008, when the Commission however stresses the elaboration of an anti-discrimination law (RR 2008:12). The latter’s implementation remains still a matter of concern to the European Commission (RR 2009:13-14).

Proportionality – Just as in the case of the CEEC, proportionality was so far taken into consideration just once, in 2005, when dealing with penalties to the criminal offence (RR 2005:86).

Accountability – The issue of accountability firstly arises in the 2005 Regular Report when the Commission salutes the presence of a Law on Civil Service, meant to provide a depoliticized and more accountable public administration, while admitting however that steps toward establishing a professional civil service are still necessary (pp.12-13). Same report notes the presence of the general Ombudsman whose lack of funds and personnel makes the overall activity hardly efficient (RR 2005:13; RR 2006:51; RR 2007:8). In addition, corruption remains a serious problem (RR 2005:16) and „implementation of the anti-corruption programme lacks strong coordination and efficient non-partisan monitoring” (RR 2007:10). However, the conditions for the functioning of the *Ombudsman* improved in 2007, and the allocation of funds had been increased (RR 2007:51). Similar remarks on the failure of the anti-corruption policies (which constitute a threat to the effective implementation of an accountable administration) were being made a year later, in 2008 (RR 2008:9). In 2009 however, the Commission appreciates the adoption of a new Law on General Administrative Procedures, which aimed at supporting the establishment of service-oriented and professional administrative practice (RR 2009:7). Still, „the civil service continues to suffer from many shortcomings, such as politicization, low salaries (which fail to attract and retain sufficient numbers of qualified civil servants), lack of clear performance appraisal indicators, and weak human resources planning and management” (RR 2009:8).

Efficiency and efficacy – As in the case of other CEEC, these principles are traceable in any of the Reports issued by the Commission between the timeframe of analysis (namely 2005-2009). As such, specific reference to their presence can be found mostly when reading on the development of all the other principles covering the present research.

Rule of law – Although progress is mandatory in the case of the political criteria, as of 2005, as reported by the Commission, Croatia respects democracy and the rule of law (RR 2005:20; RR 2006:5; RR 2007:7; RR 2008:6; RR 2009:7).

3.9. Brief remarks and comments

Reading the reports on CEEC, nor those on Croatia did not provide too many surprises. Roughly put, the eight countries included in this inquiry showed rather close similarities in the type of problems they dealt with: discrimination of minorities (especially Roma in the case of CEEC and Serbs, for Croatia), absence of a professional civil service, corruption inside the public administration, and lack of coordination between public authorities of the same or different levels of government. Poland is the notable exception in terms of discrimination (no significant infringements in that regard were noted by the Commission), Hungary, one concerning the investment in developing a professional civil service and Slovenia, the exceptional case where corruption was not reported as a problem in any of the Commission papers. Slovakia at its turn offered an interesting perspective on the profound problem the Roma discrimination represented. Finally, Romania and Bulgaria presented an overall unitary picture of a corrupted, not yet fully decentralized administrative systems, on their way to democratic consolidation. In Croatia, discrimination remains a problem and progress in reforming the public administration is imperative for increasing its overall accountability, transparency and efficiency.

In other vein, amongst the nine principles this research focused on, subsidiarity as such was never present in the Commission's Reports for any of CEEC or Croatia. Reasons for this could possibly be that references were searched on the basis offered by the European Charter of Local-Self Government (1985), and not the European Protocol on application of the principles of subsidiarity and proportionality (1998). However, as this paper did not provide sufficient data for explaining the absence of subsidiarity, the author solely suggest the need for further refinement.

4. DRAWING THE LINE? (UNDER CONSTRUCTION) CONCLUSIONS

The paper offered arguments for the following considerations:

1. The study of democratization exceeds the endogen level of the state, and develops the possibility to analyze the contribution of external actors to generating, nurture or consolidate the democratization. In the CEEC case, the European Union appears as a assistance donor for democratization. The documentary evidence on the presence of the nine principles for a minimum democratic public administration in the European acquis as well as in the content of the national responses of the CEEC to the accession requirements (with the exception of the subsidiarity) is a testimony in that sense. . Similar results were obtained for the case of Croatia. In addition, linking Europeanisation to Democratization is a possible way of escaping the “causality puzzle”, still offering perspectives for the study of the national impact of European stimuli.

2. The study of the mechanisms of Europeanisation is consolidated by refining the role the European enlargement policies plays in confirming the domestic political options for administrative reform: the accession process becomes now the context of the impact, the conditionality – the European product, and, the confirmation of accession – the measure for national reactions to the European product.
3. The study of CEEC and Croatia public administration confirms the involvement of infra-national tiers of government in orienting national reactions to European stimuli, and offers clues for further refining the research of the tiers situated as close as possible to the citizens in other countries of the Western Balkans.

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**THE CREATION OF AN INDEPENDENT AUTHORITY AS A
MEASURE OF COMPLIANCE WITH EUROPEAN LAW AND
BALANCING BETWEEN INDEPENDENCE AND ACCOUNTABILITY:
THE CASE OF THE HELLENIC NATIONAL
TELECOMMUNICATIONS' AND POST COMMISSION (EETT)**

Vassilios KONDYLIS

Law School of the University of Athens, EETT's Legal Advisor⁹¹, Athens
Greece

Abstract

The creation of Hellenic National Telecommunications' and Post Commission (EETT) is a measure taken by the Hellenic Authorities, in order to comply with the EC law in the telecommunications and postal sector. The status of this Independent Authority is determined by the Greek Legislator in order to guarantee the Independence and the Accountability of this Authority and its economic and administrative autonomy.

⁹¹ The opinions expressed in this presentation are personal and do not bind National (Hellenic) Telecommunications and Post Commission (EETT).

INTRODUCTION

The creation of the Hellenic IA in the electronic communications and postal sector

Over the last decades, all democratic countries - among them the EU member states – have witnessed a constant increase in the numbers of Independent Administrative Authorities (IAAs) granted competences previously exercised by the Central Government and its ministries. At a European level, the Community legislator stipulates that Member states shall assign to the said IAAs powers of regulation, supervision and control over entire economic sectors, such as the safeguarding of competition, energy, electronic communications and postal services.

Creating an Independent Authority to comply with European Law in the Greek legal order and to establish a balance between Independence and Accountability in the case of the Hellenic National Telecommunications and Post Commission (EETT), calls for both a brief review of the institution's creation and evolution and the pinpointing of those elements of the institutional framework that can ensure its independence and accountability.

This analysis requires an understanding of the institutional framework and role of EETT, which acts as the national regulatory authority in the electronic communications sector in line with Law 3431/2006 dealing with electronic communications⁹² and the postal services.⁹³

Next, we are going to examine the forms of control laid down by national law to ensure the legality of the Authority's acts, with a view to ensuring compliance both with the will of the Community legislator and the provisions of national—constitutional or ordinary—legislation.

This need was rendered still more compelling following the publication of the new European framework (Telecom package, passed November 2009⁹⁴) on 18.12.2009, the directives of which must be transposed into the national legal order by June 2011.

I. THE EETT INSTITUTIONAL FRAMEWORK AS AN ESSENTIAL ELEMENT IN ITS INDEPENDENCE

The analysis of the institutional role of EETT and the legal framework governing it prove that, pursuant to the Community legislator, the independence of the national regulatory authority that regulates, supervises and controls the electronic communications and postal

⁹² Government Gazette Issue (FEK) 13/A'/3-2-2006.

⁹³ Law 2668/1998 "*Organization of the postal services sector and other provisions*" (FEK 282/A'/1998) as amended by Law 3185/2003 "*Amendment of Law 2668/1998, harmonization with Directive 2002/39/EC, administration of matters relating to the Hellenic Post Organization (HPO) and other provisions*" (FEK 229/A'/2003).

⁹⁴ The following Acts: **a. Regulation (EC) No 1211/2009** of the European Parliament and of the Council of 25 November 2009 *establishing the Body of European Regulators for Electronic Communications (BEREC) and the Office*, OJ 337, 18.12.2009, pp. 1-10, **b. Directive 2009/136/EC** of the European Parliament and of the Council of 25 November 2009 *amending Directive 2002/22/EC on universal service and users' rights relating to electronic communications networks and services, Directive 2002/58/EC concerning the processing of personal data and the protection of privacy in the electronic communications sector*, OJ 337, pp. 11-36, and **c. Directive 2009/140/EC** of the European Parliament and of the Council of 25 November 2009 *amending Directives 2002/21/EC on a common regulatory framework for electronic communications networks and services, 2002/19/EC on access to, and interconnection of, electronic communications networks and associated facilities, and 2002/20/EC on the authorization of electronic communications networks and services*, OJ 337, pp. 37-69.

services sectors is fully and effectively ensured. In order to demonstrate this, specific elements of the institutional framework have been selected.

A. Review

The National (Hellenic) Telecommunications and Post Commission (EETT) is the national regulatory authority which supervises and regulates the electronic communications and postal services markets. It was set up by Law 2075/1992⁹⁵, though its function as an agency in its present form began in 1995.

The next essential stage in its evolution came with Law 2867/2000⁹⁶, the former 'statutory' law of EETT, which lays down the details of its composition, responsibilities, function and administration. Pursuant to this law, EETT is the national regulatory authority on telecommunication issues and an independent administrative authority with administrative and financial autonomy.

The creation of EETT comes under the framework of Greek state compliance with the provisions of European Law, as explained in the next paragraph.

EETT may have been given competences with regard to the regulation, supervision and control of the electronic communications⁹⁷ market, but it is not an Independent Authority⁹⁸ guaranteed by the Constitution. However, the transposition of the European directives into the Greek legal order has created a need for a national regulatory body in the telecommunications sector⁹⁹.

The Greek legislator has assigned this role to EETT¹⁰⁰.

⁹⁵ Law 2075/1992 (FEK A' 129), "*Organization and function of the telecommunications sector*".

⁹⁶ Law 2867/2000 (FEK 273 A'), pertaining to the "*Organization and function of telecommunications and other provisions*", Ch. B', articles 3 et seq.

⁹⁷ Also competent for supervising the postal services market, pursuant to Law 2668/1998 (FEK A'/282) (article 7, par. 2, under C'), as in force.

⁹⁸ EETT is not included among the Independent Authorities (IAs) guaranteed by the constitution, pursuant to the revision of 2001. However, the Constitution does not explicitly exclude the establishment by law of other independent authorities as well. Such a restriction in the competence of the Legislator does not result from the nature of the parliamentary system and the constitutional principle of the individual and collective ministerial responsibility to the Parliament. These IAs are regulated by the Law 3051/2002 (FEK 220 A'), "*Independent authorities guaranteed by the constitution, amendment and completion of hiring system to the public sector and related provisions*".

⁹⁹ In addition, the creation of a regulatory/supervisory authority (NRA) in the telecommunications/ post sector independent of the Central Administration was provided for by a series of European directives. See Commission directive 90/388/EEC (June 28, 1990) on competition in the telecommunication services market (OJ L 192 pp. 10-16) and directive 98/10/EC by the European Parliament and the Council (February 26, 1998) on the implementation of the Open Network Provision in voice telephony and the global service for telecommunications in a competitive environment (OJ L 101 pp 24-47).

¹⁰⁰ Law 3431/2006 (FEK 13/A') is already in force, in compliance with a series of European directives from 2002, the deadline for the transfer of which ended on 25-7-2003 [directives 2002/19/EC, 2002/20/EC, 2002/21/EC and 2002/22/EC by the European Parliament and the Council (OJ L, on 24-4-2002, p. 1f.) and 2002/77/EC by the Commission (OJ L 249, on 17-9-2002, p. 21)].

B. Relevant Community legislation

According to article 7 of EC Directive 90/388/EEC on competition in the telecommunication services market:

“Member States shall ensure that from 1 July 1991 the grant of operating licences, the control of type approval and mandatory specifications, the allocation of frequencies and surveillance of usage conditions are carried out by a body independent of the telecommunications organizations.”

In the wake of that directive, other legal documents (e.g. Directives 98/10 and 97/33) stress the need to guarantee the independence of the National Regulatory Authority.

Also, recital 11 of framework directive (2002/21/EC) mentions:

*“(11) In accordance with the principle of the separation of regulatory and operational functions, Member States should **guarantee the independence of the national regulatory authority or authorities** with a view to ensuring the impartiality of their decisions. [...] **National regulatory authorities should be in possession of all the necessary resources, in terms of staffing, expertise, and financial means, for the performance of their tasks.**”*

Then, pursuant to Article 3 of the framework directive (2002/21/EC) on “National regulatory authorities”:

*“2. Member States **shall guarantee the independence of national regulatory authorities** by ensuring that they are legally distinct from and functionally independent of all organisations providing electronic communications networks, equipment or services. [...]”*

According to article 4 of the Framework Directive, which is entitled: “Right of appeal”:

*“1. Member States shall ensure that effective mechanisms exist at national level under which any user or undertaking providing electronic communications networks and/or services who is affected by a decision of a national regulatory authority has the **right of appeal** against the decision to an appeal body that is independent of the parties involved. This body, which may be a court, shall have the appropriate expertise available to it to enable it to carry out its functions. Member States shall ensure that **the merits of the case are duly taken into account and that there is an effective appeal mechanism**. Pending the outcome of any such appeal, the decision of the national regulatory authority shall stand, unless the appeal body decides otherwise.*

2. Where the appeal body referred to in paragraph 1 is not judicial in character, written reasons for its decision shall always be given. Furthermore, in such a case, its decision shall be subject to review by a court or tribunal within the meaning of Article 234 of the Treaty.”

As regards the postal sector, Directive 97/67/EK (Articles 1 and 22)¹⁰¹ and Directive 2002/39/EK (Recital 27)¹⁰² expressly refer to the Member States' obligation to ensure the independence of the NRAs they establish.

According to Article 1 of Directive 97/67/EC as replaced by Directive 2008/6/EC :

*“This Directive establishes common rules concerning:
[...] - the creation of independent national regulatory authorities.”*

Pursuant to Article 22 of the directive 97/67/EC as replaced by Directive 2008/6/EC:

«1. Each Member State shall designate one or more national regulatory authorities for the postal sector that are legally separate from and operationally independent of the postal operators. Member States that retain ownership or control of postal service providers shall ensure effective structural separation of the regulatory functions from activities associated with ownership or control.

Member States shall inform the Commission which national regulatory authorities they have designated to carry out the tasks arising from this Directive. They shall publish the tasks to be undertaken by national regulatory authorities in an easily accessible form, in particular where those tasks are assigned to more than one body. Member States shall ensure, where appropriate, consultation and cooperation between those authorities and national authorities entrusted with the implementation of competition law and consumer protection law on matters of common interest.

2. The national regulatory authorities shall have as a particular task ensuring compliance with the obligations arising from this Directive, in particular by establishing monitoring and regulatory procedures to ensure the provision of the universal service. They may also be charged with ensuring compliance with competition rules in the postal sector.

The national regulatory authorities shall work in close collaboration and shall provide mutual assistance in order to facilitate the application of this Directive within the appropriate existing bodies.

3. Member States shall ensure that effective mechanisms exist at national level under which any user or postal service provider affected by a decision of a national regulatory authority has the right to appeal against the decision to an appeal body which is independent of the parties involved. Pending the outcome of any such appeal, the decision of the national regulatory authority shall stand, unless the appeal body decides otherwise.»

¹⁰¹ Directive 97/67/EC of the European Parliament and of the Council of 15 December 1997 *on common rules for the development of the internal market in Community postal services and the improvement of service quality* [OJ L 15, 21.1.1998, p. 14–25] as amended by Directive 2008/6/EC of the European Parliament and of the Council of 20 February 2008 *amending Directive 97/67/EC with regard to the full accomplishment of the internal market of Community postal services* (OJ L 52, 27.2.2008, pp. 3–20).

¹⁰² Directive 2002/39/EC of the European Parliament and of the Council of 10 June 2002 *amending Directive 97/67/EC with regard to further opening Community postal services up to competition*, OJ L 176, 5.7.2002, pp. 21–25.

Finally, according to recitals 13 and 14 of Directive 2009/140/EC:

(13) The independence of the national regulatory authorities should be strengthened in order to ensure a more effective application of the regulatory framework and to increase their authority and the predictability of their decisions. To this end, express provision should be made in national law to ensure that, in the exercise of its tasks, a national regulatory authority responsible for ex-ante market regulation or for resolution of disputes between undertakings is protected against external intervention or political pressure liable to jeopardise its independent assessment of matters coming before it. Such outside influence makes a national legislative body unsuited to act as a national regulatory authority under the regulatory framework. For that purpose, rules should be laid down at the outset regarding the grounds for the dismissal of the head of the national regulatory authority in order to remove any reasonable doubt as to the neutrality of that body and its imperviousness to external factors. It is important that national regulatory authorities responsible for ex-ante market regulation should have their own budget allowing them, in particular, to recruit a sufficient number of qualified staff. In order to ensure transparency, this budget should be published annually.

(14) In order to ensure legal certainty for market players, appeal bodies should carry out their functions effectively; in particular, appeals proceedings should not be unduly lengthy. Interim measures suspending the effect of the decision of a national regulatory authority should be granted only in urgent cases in order to prevent serious and irreparable damage to the party applying for those measures and if the balance of interests so requires.”

Many provisions of the new Directive 2009/140/EC [in particular Articles 1(3) points (a) and (b), and 1(4) points (a) and (b)] reflect the legislator’s desire to strengthen the independence of NRAs while enhancing their accountability.

According to Article 1 (3) of Directive 2009/140/EC:

«3) Article 3 shall be amended as follows:

(a) paragraph 3 shall be replaced by the following:

"3. Member States shall ensure that national regulatory authorities exercise their powers impartially, transparently and in a timely manner. Member States shall ensure that national regulatory authorities have adequate financial and human resources to carry out the task assigned to them.";

(b) the following paragraphs shall be inserted:

"3a. Without prejudice to the provisions of paragraphs 4 and 5, national regulatory authorities responsible for ex-ante market regulation or for the resolution of disputes between undertakings in accordance with Article 20 or 21 of this Directive shall act independently and shall not seek or take instructions from any other body in relation to the exercise of these tasks assigned to them under national law implementing Community law. This shall not prevent supervision in accordance with national constitutional law. Only appeal bodies set up in accordance with Article 4 shall have the power to suspend or overturn decisions by the national regulatory authorities. Member States shall ensure that the head of a national regulatory authority, or where applicable, members of the collegiate body fulfilling that function within a national regulatory authority referred to in the first subparagraph or their

replacements may be dismissed only if they no longer fulfil the conditions required for the performance of their duties which are laid down in advance in national law. The decision to dismiss the head of the national regulatory authority concerned, or where applicable members of the collegiate body fulfilling that function shall be made public at the time of dismissal. The dismissed head of the national regulatory authority, or where applicable, members of the collegiate body fulfilling that function shall receive a statement of reasons and shall have the right to request its publication, where this would not otherwise take place, in which case it shall be published.

Member States shall ensure that national regulatory authorities referred to in the first subparagraph have separate annual budgets. The budgets shall be made public. Member States shall also ensure that national regulatory authorities have adequate financial and human resources to enable them to actively participate in and contribute to the Body of European Regulators for Electronic Communications (BEREC).

3b. Member States shall ensure that the goals of BEREC of promoting greater regulatory coordination and coherence are actively supported by the respective national regulatory authorities.

3c. Member States shall ensure that national regulatory authorities take utmost account of opinions and common positions adopted by BEREC when adopting their own decisions for their national markets.»

According to Article 1 (4) of Directive 2009/140/EC:

«4) Article 4 shall be amended as follows:

(a) paragraph 1 shall be replaced by the following:

"1. Member States shall ensure that effective mechanisms exist at national level under which any user or undertaking providing electronic communications networks and/or services who is affected by a decision of a national regulatory authority has the right of appeal against the decision to an appeal body that is independent of the parties involved. This body, which may be a court, shall have the appropriate expertise to enable it to carry out its functions effectively. Member States shall ensure that the merits of the case are duly taken into account and that there is an effective appeal mechanism.

Pending the outcome of the appeal, the decision of the national regulatory authority shall stand, unless interim measures are granted in accordance with national law.";

(b) the following paragraph shall be added:

"3. Member States shall collect information on the general subject matter of appeals, the number of requests for appeal, the duration of the appeal proceedings and the number of decisions to grant interim measures. Member States shall provide such information to the Commission and BEREC after a reasoned request from either."».

C. Personal and Functional independence of EETT members

A full and effective transposition and implementation of the above-mentioned Community Legislation provisions by the Greek authorities is directly associated with the functional and personal independence granted to EETT board members pursuant to Law 3371/2005 and Law 3431/2006.

The creation of EETT comes under the framework of Greek State compliance with the provisions of the European law mentioned above.

Furthermore, as regards personal independence, according to Article 72, par. 1, of Law 3371/2005, which amended the related provisions in Article 3, par. 3, Law 2867/2000, the President and 2 Vice-Presidents are selected and appointed by the Council of Ministers following a proposal by the Minister for Transport and Communications and consultation with the Parliamentary Committee on Institutions and Transparency. The remaining 6 members of EETT are appointed by the Minister for Transport and Communications.

In particular, the functional independence of EETT members creates the need to monitor whether the binding provisions currently in force are in compliance with both the Constitution and EU Law.

1. Constitutional control

Functional (substantial) independence comprises the responsibility of the persons vested with this power to review the constitutionality of the Acts of the Legislator (Laws) and regulatory decrees and/or regulatory decisions, and to not implement those whose regulatory content they consider contrary to the Constitution. Namely, the term “*functional independence of the members of independent authorities*” has the same content as that of the “*functional independence of judges*”¹⁰³. This power represents a factor of the utmost importance in ensuring better regulation in the sectors regulated, supervised and controlled by EETT .

EETT has exercised this competence on a few occasions, though not on any occasions relating to the exercise of regulatory competence. In a case involving the implementation of a provision of EETT previous statutory law (Law 2867/2000), which stipulated¹⁰⁴ that in order to assign positions of responsibility (e.g. directors) to regular personnel, the personnel must first be hired on the basis of a fixed-term employment contract of one year (probationary service), which is subsequently transformed into an open-ended employment contract—at which stage the member of staff becomes permanent—following a decision by EETT . In its wording, this provision was contrary to the provision of Article 103, par. 8 of the Constitution as revised in 2001¹⁰⁵. Therefore, the question was raised whether those appointed to permanent positions would be permanent civil servants or hired with some other legal status, given that they occupy regular positions and would cover fixed and constant agency needs. They were hired as regular personnel; considering that they were appointed as permanent civil servants in the case at hand, EETT proceeding with a corrective interpretation of the controversial provision of Law 2867/2000. When the status of the personnel employed in this manner was questioned by other state authorities, EETT submitted a relevant question and was vindicated by the competent 3rd Chamber of the Council of State.

¹⁰³ See E. Spiliotopoulos, “*Εγχειρίδιο Διοικητικού Δικαίου*” [“*Manual of Administrative Law*”], 12th ed. 2007, vol. I, §293, p. 303.

¹⁰⁴ Article 4 par. 1 of Law 2867/2000.

¹⁰⁵ According to this article: “*Conversion by law of the employment relation of personnel under the first section [private law employment relations] to permanent employment or conversion by law of their employment contracts into open-end employment contracts is prohibited. The prohibitions of the present paragraph also apply to those employed on the basis of contracts of work.*”

Additionally, when EETT exercises its regulatory competence, it interprets national law provisions that transpose the provisions of European law directives into the domestic legal order in the light of the provisions and recitals on these directives. This minimizes the risk of adopting a regulation that will be contrary to a rule of higher typical force, especially of EC law.

Moreover, on a few occasions, EETT adhered to the stipulations of the European law, despite the harmonisation legislation that would bring national law into line with European directives not having been issued yet.

For instance, a directive has been issued by the Commission¹⁰⁶ which specifies which elements must be sent for publication to the Official Journal of the European Union with regard to tender notices for procurement contracts or service contracts. In the case at hand, until the act adapting Greek law to the provisions of the directive in question was issued, EETT considered the provisions of the specific annex to this directive to be so clear and unconditional, as directed by the case law of the Court of Justice of the European Communities (ECJ), that they required no further issuance of executive decisions by the competent national bodies and could therefore be implemented immediately. To this effect, EETT would send¹⁰⁷ the completed reformed text of the annex for publication in the Official Journal of the Communities.

Furthermore, starting on February 1, 2006, EETT began implemented the provisions of Directive 2004/18/EC¹⁰⁸ on state contracts - the deadline for the transposition of which had lapsed on 31-1-2006 seeing as no instrument adapting Greek law to the provisions of the said directive had been issued—according to the case law of the ECJ¹⁰⁹. The pertinent presidential decree (PD) no 60/2007 was published in Government Gazette (FEK) 64/A/16-3-2007.

This power of EETT is limited. Thus, in 2004 and 2005, before the publication of Law 3431/2006 on 3-2-2006 by means of which Greek law was adapted to the European framework of 2002 on electronic communications, EETT proceeded with four public consultations on a national level and provided the Commission with a schedule of measures relating to call termination in mobile communications networks to which the Commission responded. However, EETT had no competence to establish these measures prior to the Legislator granted it.

2. EXCLUSION OF HIERARCHICAL CONTROL

The second element in this analysis of functional autonomy is the exclusion of hierarchical control. Law 2075/1992 stated that EET would be a five-member independent state authority with administrative autonomy which would, however, be supervised by the Minister for

¹⁰⁶ Commission Directive 2001/78/EC of 13 September 2001 amending Annex IV to Council Directive 93/36/EEC, Annexes IV, V and VI to Council Directive 93/37/EEC, Annexes III and IV to Council Directive 92/50/EEC, as amended by Directive 97/52/EC, and Annexes XII to XV, XVII and XVIII to Council Directive 93/38/EEC, as amended by Directive 98/4/EC (Directive on the use of standard forms in the publication of public contract notices), OJ L 285, pp. 1-162.

¹⁰⁷ This practice was followed after the lapse of the deadline for the transfer of this directive, on May 1st, 2002. Harmonization of the Greek legal order with this directive 2001/78 was effected by means of PD 104/2005 (FEK 71/A/4-3-2004), relating to the “Adaptation of Greek law on State Contracts to the provisions of Directive 2001/78/EC on September 13, 2001 and amendment of PD 370/95 (FEK 199/A/14.9.1995) and 57/2000 (FEK 45/A/2.3.2000)”.

¹⁰⁸ OJ L 134, as amended and in force then.

¹⁰⁹ See decision ECJ on January 19, 1982, case 8/81, Becker, Collection (p. 53 et seq., particularly p. 71).

Transport. Supervision came in the form of a suppressive legality audit of its actions and disciplinary control including the bringing of disciplinary proceedings against its members. Law 2246/1994 also provided for the supervision of EETT by the Minister for Transport and Communications.

Starting with Law 2867/2000, and subsequently with Law 3431/2006, the functional and personal autonomy of EETT members is fully¹¹⁰ guaranteed with no provision made for any form of supervision or control by the competent minister (the Minister for Transport and Communications) over the actions of EETT or the persons setting it up. Moreover, provision is made for disciplinary proceedings against the members of EETT before the five-member disciplinary board, which is set up by two judges and three university professors¹¹¹.

From the above, we can infer that the institutional framework of EETT fully establishes its members' autonomy. In other words, the Community legislator's stipulations regarding the NRAs characteristics are satisfied.

In this way, it becomes clear why EETT member autonomy is directly connected to the analysis of the methods followed by EETT in order to achieve better regulation of the electronic communications sector, an objective set by the Community legislator and binding on national authorities. This is because EETT is under obligation to establish a climate of trust between the interested parties (enterprises and users) by exercising the powers granted it by the legislator within a competitive and dynamically developing market. This trust must go hand in hand, as it does, with the market requirements for constant dialogue. This practice is an essential element in the regulatory reform of the electronic communications sector, and thus in the achievement of better regulation of this sector.

D. Administrative and financial autonomy

1. Administrative autonomy

The Community legislator's stipulations regarding the NRA's status are satisfied due to *inter alia* the administrative and financial autonomy of EETT. Regarding this issue, Article 13 of Law 3431/2006 stipulates that a total of 220 positions are suggested for EETT, including 75 for regular personnel, 137 for specialised scientific personnel, 7 for attorneys-at-law and 1 for a legal advisor.

EETT has employed relatively young, well-trained civil servants with post-graduate studies and/or doctoral degrees obtained in Greece or abroad, many of whom also have a considerable amount of professional experience. These civil servants develop initiatives and suitably educated and trained to undertake and carry out demanding tasks. This helps in the creation of a contemporary mentality in EETT workforce, which allows for more rapid adaptation to the particularities and requirements of the rapidly developing electronic communications sector.

¹¹⁰ The exact same provision is made in Article 72, par. 1 of Law 3371/2005, which was substituted for the pertinent provision of Article 3, par. 3 of Law 2867/2000.

¹¹¹ Article 10 of Law 3431/2006.

2. Financial autonomy

In compliance with the provisions of the European Directives, Greek Law has confirmed the financial autonomy of EETT from the moment of its creation. At present, EETT has its own resources that allow the body to fully cover its expenditure. As a result, it does not receive public subsidies (from the national budget).

Pursuant to Law 3431/2006, EETT resources may come from:

1. Fees and charges for general authorizations procedures;
2. Fees and charges for granting the rights to the use of radio frequencies and numbers;
3. Fees and taxes for services to operators;
4. Fines imposed as penalties for breaches of special legislation on electronic communications, postal services and the protection of free competition;
5. Other monies collected in the course of an administrative or judicial procedure. However, pursuant to Law 2867/2000, EETT shall not be entitled to sums paid by interested operators during a competition procedure or auction of individual licences (sums which would, in the case of the 3rd-generation mobile telephony, amount to millions of Euros). EETT can only subtract sums corresponding to expenses made for the organisation of the competition procedure or the auction sale. The sums paid shall be contributed to the national budget. Law 3431/2006 contains a similar provision regarding the procedure of granting specific rights to the use of radio frequencies when the number of said rights is limited.

Furthermore, the law provides for a subsequent legality audit of EETT expenditure conducted by the Court of Auditors and subject to the political supervision of the Hellenic Parliament and administrative tribunals. The law does not provide for a preventive previous audit by the Court of Auditors or any other public body. This enables the governing body of EETT to undertake initiatives without the burden of the complex preventive legality audit procedures that apply to State Administrations—though, generally speaking, the said audit cannot be easily distinguished from a control of opportunity.

This financial autonomy allows EETT to create committees or mixed working groups for the examination of questions of specific interest. The said committees and working groups consist of EETT personnel and experts, and these two categories are, as a rule, remunerated. Finally, financial autonomy also enables EETT to comply with its Regulation on Public Procurement without having to apply to the Minister for Transport and Communication or any other state authority for ex-ante approval.

Finally, the correct transposition of the Community Directives -and Directive 2002/21/EC, in particular- into the Greek legal order is attested to by the second essential element associated with the principle of functional autonomy: the financial autonomy provided and guaranteed by the Legislator. This autonomy allows EETT to make assignments either in the context of work groups and committees or by means of direct assignments to independent experts who review issues of special interest for a fee and facilitate the exercise of EETT's regulatory competencies with their knowledge and experience.

E. EETT competencies

A significant institutional feature that demonstrates the correct transposition of the 2002 directives into the Greek legal order is the exposition of EETT 's competences.

1. Categories of EETT competency

EETT is granted significant competences in the electronic communications sector since Law 3431/2006, Article 12 in particular, makes extensive reference to its competencies¹¹².

The EETT is also awarded significant competences in the postal sector, since Law 2668/1998, as amended by Law 3185/2003, Article 7 in particular, makes extensive reference to its competencies.

This exposition of EETT 's competences demonstrates that its institutional framework is in line with the Community Legislator's stipulations on the sectors EETT regulates, supervises and controls.

Certainly, it is not only Law 3431/2006 which assigns a significant number of competencies to EETT, particularly in the electronic communications sector; indeed, a series of other Laws¹¹³ and presidential decrees assign further competencies to EETT .

For instance, EETT's competencies were expanded by Law 3592/2006¹¹⁴ on the "*Concentration and Licensing of Media Enterprises*" as amended by Law 3688/2008¹¹⁵. The same is true of Article 9 of Law 3548/2007¹¹⁶, for example, which relates to the issuing of regulations and the subsequent granting of radio-frequency rights of use to television stations which broadcast to locations which had not been declared to the National Council of Radio and Television (NCRTV) pursuant to the legislation in force according to Article 9, Law 3548/2007. Also, by means of PD 150/2000¹¹⁷, which grants EETT a regulatory capacity with

¹¹² However, in certain sectors, the differentiation between Law 3431/2006 and the provisions of Law 2867/2000 is evident, as Law 3431/2006 provides for the assignment of the issuance of the National Numbering System to the Ministry of Transport and Communications and its management to EETT , whereas all the competencies had previously been exercised by EETT.

¹¹³ For instance, Law 2774/1999, Protection of personal data in the telecommunications sector (FEK 287/A'), via Article 8, par. 2, authorizes EETT to specify, by means of a decision, the amount and the payment method that subscribers not wishing to have their personal data listed is under an obligation to pay to the directory service provider.

¹¹⁴ FEK 161/A'.

¹¹⁵ Pursuant to article 15, par. 11 of Law 3592/2007: "*11. Content providers may conclude contracts with network providers or/and electronic communications service providers for broadcasting radio and television services. If EETT ascertains, following a research in the Market of radio and television programme broadcasting and radio services and television content distribution network services to the end users, that network providers or electronic communication service providers occupy significant power in the said Market, it can impose on them suitable measures upon assignment of their network or transfer of their signal to a network, so that they offer their services to all licensed providers of land digital radio and television free reception broadcasting without exceptions, under equal terms and without violating the principles of fair competition*". Par. 11 was replaced as above by article 13 of Law 3688/2008, FEK 163/A'.

¹¹⁶ FEK 68/A'.

¹¹⁷ PD. 150/2001 (FEK 125/A'), Adaptation to Directive 99/39/EC of the European Parliament and of the Council of 13 December 1999 on a Community framework for electronic signatures.

regard to compliance with provisions regarding the creation of digital signatures, or PD 44/2002¹¹⁸, which awards EETT competencies relating to the control of terminal equipment.

Firstly, as regards the competencies assigned to EETT, it is sufficient to say that the main category of competencies are the **regulatory competencies** regarding the issuing of regulatory decisions concerning various areas of the telecommunications sector. For this reason, the continuous search for and implementation of methods for improving the quality of the regulatory decisions adopted with a view to achieving better regulation in electronic communications¹¹⁹-an effort which intensified following the harmonization of Greek law with the European framework of 2002 on electronic communications-was and is of the utmost significance to EETT.

For instance, from the coming into effect of Law 2668/1998 and Law 2867/2000 up to January 2010, over 350 regulatory decisions had been issued in the sectors regulated by EETT. Moreover, awarding EETT the legal power to establish rules relating to a large number of special issues by means of regulatory decisions, differentiates EETT from other IAs, whether they be guaranteed by the Constitution or not, which do not have regulatory competencies¹²⁰, and makes it necessary to respect the criteria of good regulation¹²¹.

Secondly, EETT is assigned with **advisory competences**, such as those relating to the adoption of legal measures for the development of the electronic communications market¹²².

A third category of competencies is the **issuance** by EETT of individual administrative decisions, either in order to implement regulatory decisions which have, in most cases, been

¹¹⁸ PD 44/2002, adaptation to Directive 1999/5/EC of the European Parliament and of the Council of 9 March 1999 on radio equipment and telecommunication terminal equipment and the mutual recognition of their conformity, FEK 44/A'.

¹¹⁹ As well as the postal sector.

¹²⁰ For instance, the High Hellenic Civil Service Commission (ASEP), the Personal Data Protection Authority, the National Council for Radio and Television (NCRTV), the Ombudsman, the Regulatory Authority for Energy, etc.

¹²¹ Nevertheless, an exception is, e.g. Law 3115/2003 relating to the Authority for Communication Security and Privacy (FEK 47 A'/27-2-2003), by means of which the Information and Communication Security and Privacy Authority (ADAE) was set up pursuant to par. 2 of Article 19 of the Constitution, aiming at the protection of the secrecy of letters and all other forms of free correspondence or communication. This law grants regulatory competencies to ADAE. In Article 6, in which the competencies of the new Authority are listed under item l), it is stipulated that ADAE issues regulatory decisions published in the Government Gazette, by means of which each procedure and detail relating to its competencies is regulated, whereas the security and privacy of communications is generally guaranteed. Naturally, the same provision in Article 6, under item k, stipulates that the new Authority advises and issues recommendations and suggestions for the resumption of measures for ensuring the security and privacy of communications, as well as the procedure for lifting such privacy.

¹²² See Article 3, par. 14, item o) of Law 2867/2000. Furthermore, Article 4 of Law 2774/1999 stipulates that EETT offers advice in case of ambiguity with regard to the technical possibilities of anonymous and alias use and payment of telecommunication services available to the public. Law 2668/1998 provides for the advice of EETT in many cases of the issuance of decisions by the Minister of Transport and Communications, pertaining to the regulation of the postal services sector, such as, e.g., in Article 5, par. 6, Article 7, par. 4, Article 14. etc.

enacted¹²³ earlier by EETT, or in order to impose sanctions¹²⁴ which are issued in the context of its electronic communications market¹²⁵ supervision and control competencies.

The law also states¹²⁶ that EETT is responsible for the observance of legislation applying to the electronic communications and postal sector, including competition-related issues that may arise during the performance of the activities of the relevant enterprises. Competition-related issues can be referred to the Committee on Competition.

In emergencies, the agency can take protective measures.

EETT can carry out material acts, such as controlling the use of radio frequencies.

EETT can also conclude:

Administrative contracts relating to the supply of goods, conducting of studies and provision of services,

Contracts under private law relating to the leasing of land or buildings or other immovable property-regardless of particular terms, conditions or rights pertaining to the goods in question-with a view to accomplishing the agency's mission.

The agency can propose measures to the government (and to the Minister for Transportation and Communications, in particular) relating to the development of the telecommunications and/or postal services sector. That said, as already explained, the Minister alone has the power to define which policies should be followed in the said sectors.

The agency shall have the power to settle disputes between operators and between operators and their clients.

Pursuant to Law 3431/2006, EETT can participate in international forums, and collaborate with the ITU (International Communication Union) and other entities, within the area of its competences.

2. Publicizing EETT decisions

A significant institutional feature that demonstrates the correct transposition of the 2002 directives into the Greek legal order is the publicizing of EETT regulatory decisions. Thus, EETT regulatory decisions are published in the Government Gazette (FEK, Issue B'), while individual decisions are communicated to their recipients. Both regulatory and most individual decisions are also registered on EETT website (www.eett.gr), along with all other relevant information-i.e. EETT announcements or consultations. A press release is also issued

¹²³ For instance, in case of general authorizations, EETT grants radiofrequencies to a company requesting such radiofrequencies or issues a permit for the construction of land antenna stations.

¹²⁴ For instance, the imposition of a fine on a telecommunications organization for violating the terms of the respective general authorization or the telecommunication legislation.

¹²⁵ Finally, a separate category is comprised of non-legislative actions (physical interventions) carried out in e.g. the supervisory sector of the radiofrequency spectrum and regarding, as in the interruption of the operation of radio or television station due to the enforcement of a decision now taken by NCRTV following the recent constitutional revision of 2001 (article 15, par. 2 of the Constitution).

¹²⁶ Article 12, item 6 of Law 3431/2006.

and a pertinent announcement registered on EETT website in each case. Thus, the requirements for free access to the law and knowledge of legal rules are met.

3. *Public consultations*

Another of EETT's principal prerogatives in the electronic communications sector is the conducting of situation analyses for each market with a view to ensuring free competition in each of the market segments identified by the Commission in its Recommendation of 11 February 2003 concerning the goods and service markets in the electronic communications sector which can be subject to *ex ante* regulation pursuant to the aforementioned¹²⁷ Framework Directive (2002/21/CE).

In order to better conduct this analysis, EETT has, in conformity with the Law, carried out public consultations as these are provided for by the Framework Directive. Having concluded this analysis, the agency has identified the SMP operators in these markets and, where deemed necessary, imposed justified, proportionate and well-founded obligations on them relating to the nature of the competition issues identified (such as price control and obligations relating to cost-orientated rates). This course of action has primarily been taken with regard to wholesale markets, though also, albeit to a smaller extent, to retail markets. These obligations, or remedial measures, are defined in the Community framework Directives (the "*Access Directive*"¹²⁸ and the "*Universal Service Directive*"¹²⁹). Having conducted market analyses, EETT has imposed the appropriate regulatory obligations.

In any case, consultation texts relating to the adoption of a regulatory decision by EETT are also published in the daily press¹³⁰ and uploaded to a specific EETT site in conformity with Framework Directive and Law 3431/2006.

Finally, anyone interested in the actions taken by EETT will find it very helpful that the responses to questions relating to issues encountered more or less often in practice¹³¹ are also listed on EETT website. Thus, instructions have, for instance, been provided regarding

¹²⁷ OJ n^oL 114, 8.5.2003, pp. 45-49.

¹²⁸ Directive 2002/19/EC of the European Parliament and of the Council of 7 March 2002 on access to, and interconnection of, electronic communications networks and associated facilities (Access Directive) OJ L 108, 24.4.2002, pp. 7-20.

¹²⁹ Directive 2002/22/EC of the European Parliament and of the Council of 7 March 2002 on universal service and users' rights relating to electronic communications networks and services (Universal Service Directive) OJ L 108, 24.4.2002, pp. 51-77.

¹³⁰ For instance, in order to regulate the Introduction of Carrier Preselection and Number Portability in Greece, EETT carried out a public consultation between February 11, 2002 and March 12, 2002. Taking into consideration the results of the said consultation, as these are included in Decision 251/75/22.4.2002, EETT issued a Decision on 31.05.2002 entitled "*Regulation on the Introduction of Number Portability in the Greek Market*", Decision EETT 254/71/2002 (FEK 791/B'/26-6-2002).

¹³¹ Refer to website: <http://www.eett.gr/opencms/opencms/EETT/FAQS/>. E.g. on 29-7-2005 a series of responses regarding frequently asked questions by registrants and registrees with regards to domain names with Greek characters have been published on EETT website. It should be remembered that the new Regulation on the Management and Granting of Domain Names with a gr ending has been in force since 10:00 am on 4.7.2005.(Decision EETT 351/76/20-5-2005, FEK 717/B'/27-5-05), according to which it is possible to register domain names, the variable field of which consists of Greek characters. Applications for the registration of domain names with Greek characters are submitted via Registrees.

entitlement to Local Loop Unbundling (LLU)¹³², and an extensive and detailed explanatory text is provided by means of an introduction to digital signatures.

II. THE LEGAL STATUS AND ACCOUNTABILITY OF EETT

The examination of the mechanisms chosen to ensure **accountability** within the institutional framework of EETT is necessary, because it proves that the National Legislation methods of ensuring EETT supervision comply with the provisions of Community Law and, in particular, with the obligation to respect the agency's independence as a NRA.

The question of which mechanisms will ensure accountability within the institutional framework of EETT compels us to search for the answer in the supervision procedures applying to other state entities based on the **classic model of the separation of powers** applied by the Greek constitutional system. This will be followed by an examination of other forms of supervision that could apply to EETT.

A. Institutional supervision: EETT's accountability to other State entities

1. EETT and the Parliament

Even if the general rule is the exclusion of all forms of political control over the members or acts of EETT, the Hellenic Parliament has the power to supervise it, both *ex ante*, during the members selection procedure, and *ex post*, during the members' term in office. The forms and intensity of this supervision may vary substantially.

a. Ex ante

First, we have already explained that, as regards designating EETT members, Law 2867/2000—before its amendment by Law 3371/2005—stated that all EETT members would be nominated by the Minister for Transport and Communications following their selection by the Conference of Presidents of the Chamber of Deputies, by a qualified majority of at least four fifths of its members. Moreover, this selection procedure is, pursuant to the Constitution, applied for the designation of the members of the five Independent Authorities recognized by the Constitution.

According to the selection system currently in force for EETT, its members, President and two vice-Presidents are nominated by the Cabinet after consultation with the Parliamentary Committee on Institutions and Transparency.

b. Ex post

Secondly, forms of Parliament control have been instituted in the case of EETT which give the impression of a **cascade control**.

¹³² This is the ability of beneficiary telecommunication enterprises to use the local loop of the Notified Operator (NO)—namely the OTE, at present—for the provision of telecommunication services to the customer. The 'local loop' means the physical twisted metallic pair circuit connecting the network termination point on the subscriber's premises to the main distribution frame or equivalent facility in the fixed public telephone network (Article 2 (c), of Regulation (EC) No 2887/2000 of the European Parliament and of the Council of 18 December 2000 on unbundled access to the local loop, OJ 334, 30.12.2000, p. 4.

Thus, EETT without being politically accountable to the Hellenic Parliament, as is the case for the Government and its ministers, is still **under an obligation to submit its Annual Activity Report to both the Hellenic Parliament and the Government**¹³³; this is an indirect and mild form of control.

Another less mild, but equally indirect, form of control resides in the fact that within the of parliamentary control/supervision framework, EETT **has to draft the Minister for Transport and Telecommunications' answers to any questions put to him/her by MPs** relating to EETT 's sphere of activities.

In terms of control intensity, EETT is under an obligation to present its opinions on parliamentary or government bills touching on its areas of competence, when invited to by the relevant Parliamentary Committee.

Finally, EETT members (usually the president and/or the two vice-presidents) are under an obligation to **present themselves to the parliamentary Committee on Institutions and Transparency**¹³⁴ when invited to do so. The Committee in question exerts actual, in-depth political control over the activities of EETT and all other Independent Authorities, constitutionally recognised or not.

In this case, EETT must answer all the questions asked by MPs relating to its acts or practices. To this day, EETT has never encountered a problem with this kind of control. In any case, the Parliament has no authority to end EETT members' terms of office.

2. EETT and the Government

Even if the general rule is the exclusion of all forms of hierarchical control over EETT members or acts, the Government has the power to control it indirectly both *ex ante*, during the members' selection procedure, and *ex post*, during the members' term of office. The forms and intensity of this supervision may vary substantially.

a. Ex ante

One form of *ex ante* control consists in the power to nominate the members of EETT - a power granted to the Government, as explained above.

Another form of control resides in the Government's power to set the rules relating to the salary policy for its members and personnel. EETT itself only has the power to propose the rules; the rules are adopted by a joint decision of the Minister for Economy and Finance and the Minister for Transport and Communications, who can ignore EETT's proposal and reduce the sums proposed.

The members and personnel of EETT are subject to a remuneration regime different from those that of other Independent Authorities, as well as that pertaining to civil servants. The most crucial difference between the remuneration regime of EETT and the Civil Service lies

¹³³ Article 6 §2, last subparagraph, of Law 3431/2006, see *supra*.

¹³⁴ Article 43 A, §2 b), and 91 of the Standing Orders of the Parliament.

in the fact that the former provides for the payment of various benefits and allowances that make EETT personnel better paid than most civil servants.

The present legal status of EETT members dates back to 2000. The legal status of its personnel came into force on 9 May 2007¹³⁵.

However, this situation permit EETT neither to follow its own remuneration policy nor to correct certain imperfections in its present personnel status-the non-provision of a special remuneration for shift work and flexible working hours, for example. There is always room for improvement.

Finally, both the previous Law 2867/2000¹³⁶ and Law 3431/2006¹³⁷ which is currently in force state that if EETT balance sheet drawn up every two years in relation to its financial management is positive (revenue-expenditure), a part of its surplus revenue goes to the State budget as a public revenue which is primarily allocated to finance such actions that would help meet the objectives laid down by the Law. The part allocated to this end, which cannot exceed 80% of the total revenue surplus, as well as the terms of its payment, are fixed by a joint decision of the Minister for Economy and Finance and the Minister for Transport and Communications. By decision of the Minister for Transport and Communications, EETT can use the remainder of the revenue surplus to cover *inter alia* expenditure arising from the Ministry's General Secretariat of Communications in the exercise of its duties.

Finally, pursuant to Law 3431/2006¹³⁸, the rules of financial management pertaining to EETT are set by a joint decision of the Minister for Economy and Finance and the Minister for Transport and Communications subsequent to a proposal made by EETT.

b. Ex post

In relation to the *ex ante* control exerted by the Government, we have already mentioned that EETT is under an obligation to submit its Annual Activity Report to both the Hellenic Parliament and the Government.

As mentioned above, the new Law 3431/2006 instituted, for the first time, a disciplinary body designated the "Disciplinary Council", vested with disciplinary power over EETT members and constituted by a decision of the Minister for Transport and Communications¹³⁹. The nomination procedure allows for the inclusion of this type of control into the category of control exerted by the Government over EETT.

The afore-mentioned Council, whose members have already been nominated, consists of a member of the Council of State, a judge from the Court of Cassation and three university professors specialised in Communications and/or Law. To date, the Disciplinary Council has not initiated disciplinary procedures against an EETT member.

¹³⁵ FEK 726/B/9-5-2007. The guiding principle of the personnel regulation is advancement onto a higher salary level and the payment of two large allowances: one aiming to attract qualified individuals to EETT, one in recognition of productivity, performance and efficiency.

¹³⁶ Article 13 §8.

¹³⁷ Article 61 §6.

¹³⁸ Article 61 §8.

¹³⁹ Article 10 §2 of Law 3431/2006, *supra*.

Finally, the Minister for Economy and Finance and the Minister for Transport and Communications have on several occasions exerted the power granted to them by Article 61, paragraph 6 of Law 3431/2006; as a result, a substantial part of EETT 's financial results has already been transferred to the State budget.

3. EETT and the Courts

The most thorough control of the acts of EETT is exerted by the courts, and the Administrative Courts, in particular.

Before the adoption of Law 3431/2006, the agency's acts were generally contested directly by applications for annulment before the Council of State.

However, the agency's decisions on taking provisional measures were brought before the Administrative Court of Appeal of Athens.

Pursuant to Law 3431/2006¹⁴⁰, which is currently in force, the acts of EETT are now generally directly contested by remedy of full jurisdiction before the Administrative Court of Appeal of Athens. So the merits of the case are duly taken into account and there is an effective appeal mechanism. At present, the question of the constitutionality of transfer from the Council of State to the Administrative Court of Appeal of all litigations arising from acts of EETT, regardless of their nature or importance, in conformity with article 95§ 3 of the Constitution as revised in 2001, is still pending before the Plenary Assembly of the Council of State.

The Law provides that all judgements delivered by the Administrative Court of Appeal can be remitted to the Council of State by remedy of judicial review.

In any case, the legality of EETT 's acts can be reviewed by the other Administrative Courts (of First Instance), especially within the course of procedures reviewing the legality of other administrative acts that have an EETT act as their legal basis¹⁴¹.

In some cases, the Civil Court has the jurisdiction to hear litigations arising from EETT acts, as was the case with litigations relating to the remuneration of specific scientific personnel working for EETT under an open-ended contract of private law.

The annual financial management of EETT is reviewed *a posteriori* by the Court of Auditors. A two-member Committee of the said Court conducts this review, which examines one or two consecutive financial years. In addition, important draft contracts of public procurement of supply, services and studies of great value are submitted to the preventive review of the Court of Auditors¹⁴².

In addition, contracts of substantial financial value concluded by EETT contain arbitration clauses for eventual litigations.

¹⁴⁰ Article 67§1.

¹⁴¹ The judgements delivered by these courts of first instance and, as a rule, all judgements delivered by second-instance administrative courts, can also be remitted to the State of Council by remedy of judicial review.

¹⁴² Article 98, par. 1(b) of the Constitution as revised in 2001.

As a rule, EETT as a state authority shall comply immediately with all judgements made by Greek Courts that concern it, in conformity with article 95 §5 of the Constitution, as revised in 2001, and in accordance with the Constitutional Implementation Law 3068/2002.

EETT shall similarly comply with all suggestions made by the Committee designated by the Court of Auditors within the course of an *a posteriori* review of its annual financial management.

Finally, EETT, in collaboration with the Government, drafts the answers to preliminary questions submitted by a national court—Greek or otherwise—to the European Union Court of Justice when the issue in question is within EETT's area of competences, as defined by national Law.

B. Other forms of control/review/audit

First, pursuant to Law 3431/2006¹⁴³, the audit of EETT's financial data, annual accounts and financial statements is carried out by certified auditors. These elements, as well as the financial statements, are published annually in at least two journals as well as in the Greek Government Gazette; they must also be published on EETT website.

Secondly, the certainly less restrictive social control exerted on EETT is very important. Social control denotes the influence exerted on EETT by economic operators, user groups, EETT union representatives and the academic community.

The needs of the electronic communications and postal services sectors, coupled with the considerable experience and knowledge of EETT personnel, have made it possible—following the publication of Law 2867/2000—to organise public consultations on various contemporary issues, prior to the taking of a decision related to regulation. As the Commission¹⁴⁴ and the OECD¹⁴⁵ suggested in reports made some years ago, and as the 2002 new European Framework Directives on the subject of electronic communications advised, this is of considerable importance in ensuring the correct planning of telecommunications sector regulations.

After the publication of Law 3431/2006, **systematic public consultation has become a General Law procedure that governs the regulatory power granted to EETT**¹⁴⁶. The will to intensify this effort on the part of EETT is undoubtedly a means of establishing a close dialogue with the market, of staying in touch with its expectations and needs, and of being able to provide answers and justify choices made. It would not be overstating the case to say that this form of control has proven effective in practice.

¹⁴³ Article 61§7.

¹⁴⁴ See COM (2002) 278(01)], *Communication from the Commission; Action plan "Simplifying and improving the regulatory environment"*, at http://europa.eu.int/eur-lex/en/com/cnc/2002/com2002_0278en01.pdf. For the final report of a "high-level Advisory Group" chaired by the President of the Litigation Section of the French Council of State, D. Mandelkern [*Mandelkern Group on Better Regulation Final Report*] on improving regulation, submitted on 13/11/2001, see <http://www.taoiseach.gov.ie/upload/publications/471.pdf>.

¹⁴⁵ Reports of 1995 and 1999 respectively.

¹⁴⁶ See <http://www.eett.gr/opencms/sites/EETT/Consultations/>.

EETT activity is subject to constant social control exerted by pressure groups, electronic communications and postal services users associations, the Press, operator pressure groups/lobbyists etc.

The personnel representatives with whom the agency aims to maintain a continuous dialogue on all issues also exert control over EETT activities in an indirect manner.

Finally, the choices made by EETT in exercising its discretionary power are generally analysed, criticised or approved by the **academic community** within the context of international academic conferences held in Greece or abroad. This helps EETT to improve and enhance its practice and its options.

C. EETT and the establishment of the BEREC

The establishment of the BEREC (Body of European Regulators for Electronic Communications) and the commencement of its activity defined in the Regulation EC/1211/2009 change the landscape of the electronic communications sector. The BEREC will provide a force for consistent regulation across Europe strengthening the single telecoms market by constituting a sui generis body for the inspection of NRA activities in conformity with article 1 §4, of Regulation EC/1211/2009:

“BEREC shall draw upon expertise available in the NRAs and shall carry out its tasks in cooperation with NRAs and the Commission. BEREC shall promote cooperation between NRAs, and between NRAs and the Commission”.

Article 2 defines the “*Role of BEREC*”:

“BEREC shall:

(a) develop and disseminate among NRAs regulatory best practice, such as common approaches, methodologies or guidelines on the implementation of the EU regulatory framework;

(b) on request, provide assistance to NRAs on regulatory issues, [...]”.

Article 3 lays down the “***Tasks of BEREC***”, **indicative of the key role the body is going to play henceforth in the electronic communications sector.**

More specifically (and abbreviated for the needs of this presentation):

“1. The tasks of BEREC shall be:

(a) to deliver opinions on draft measures of NRAs concerning market definition, the designation of undertakings with significant market power and the imposition of remedies, in accordance with Articles 7 and 7a of Directive 2002/21/EC (Framework Directive); and to cooperate and work together with the NRAs in accordance with Articles 7 and 7a of Directive 2002/21/EC (Framework Directive);

(b) to deliver opinions on draft recommendations and/or guidelines on the form, content and level of details to be given in notifications, in accordance with Article 7b of Directive 2002/21/EC (Framework Directive);

[...]

(e) on request, to provide assistance to NRAs, in the context of the analysis of the relevant market in accordance with Article 16 of Directive 2002/21/EC (Framework Directive);

(g) to be consulted and to deliver opinions on cross-border disputes in accordance with Article 21 of Directive 2002/21/EC (Framework Directive);

(h) to deliver opinions on draft decisions authorising or preventing an NRA from taking exceptional measures, in accordance with Article 8 of Directive 2002/19/EC (Access Directive);

[...]

(m) to deliver opinions aiming to ensure the development of common rules and requirements for providers of cross-border business services;

[...].

2. *[...].*

3. *NRAs and the Commission shall take the utmost account of any opinion, recommendation, guidelines, advice or regulatory best practice adopted by BEREC. BEREC may, where appropriate, consult the relevant national competition authorities before issuing its opinion to the Commission."*

Finally, 28th January 2010 marks the start of a new era for telecommunications in the EU. The telecommunication regulators of the 27 EU member states met for the first time in Brussels as members of the new Body of European Regulators for Electronic Communications (BEREC).

CONCLUSION: THE FUTURE OF EETT

From this analysis, we can conclude that Greece has fully and effectively complied with both the 2002 Community Framework and the Community Provisions on electronic communications.

The legal status of the Greek NRA—namely the National Committee of Telecommunications and Postal Services (EETT)—as an independent administrative authority and the favourable legal framework that governs its activity enable the agency to fulfil its tasks autonomously and effectively, and to act rapidly in a sector undergoing massive change, as has been the case with the electronic communications sector since 2002.

The examination of the legal status of EETT and the way in which its competences are organised indicates that a delicate but successful balance has been achieved between its members' functional and personal autonomy and the application of control on multiple levels which is political, disciplinary, judicial and social in nature and not hierarchical.

Furthermore, the good results obtained by the effective exercising of EETT's duties are evident in the continuous development of the Greek electronic communications and postal services sectors--development which has become even more significant following the adoption of Law 3431/2006 and the harmonisation of national law with the Community Framework relating to electronic communications.

Finally, from the consumer's point of view, the progress achieved has been remarkable, as the inflation rate in the electronic communication sector has been negative, standing at -10% in 2004 (with respect to 2003), while in 2004 the general level of prices had risen at +3.2% (with respect to 2003). These positive results, though admittedly less spectacular, have been a constant feature of the sector since.¹⁴⁷

There is still much to do when the new European Framework (Telecommunication package passed in November 2009) is transposed into the Greek legal order. We must stress that the new rules included in the Better Regulation Directive and the Citizens' Rights Directive will need to be transposed into the national law of the 27 EU Member States by June 2011. The new Regulation establishing a new European Telecoms Authority designated the "*Body of European Regulators for Electronic Communications (BEREC)*" is directly applicable and entered already into force. It is, therefore, essential to examine in due time the ways in which the BEREC's activity may impact on the NRA's activity.

In the light of this analysis, we can maintain that, with regard to the subject under examination, the provisions of Directive 2009/140/EC [and Articles 1 (3) points (a) and (b) and case 3a (4) point (a), in particular] already comprise part of the institutional framework of EETT.

¹⁴⁷ Thus, the inflation rate in the electronic communications sector rose by -0.5% in 2005 (with regard to 2004) and the increased rate of the general level of prices in 2005 (with regard to 2004) rose by +3,6%. Refer to http://www.eett.gr/export/sites/default/sites/EETT/NewsReleases/PressReleases/DT_20_5_2008.pdf (in Greek).

IMPACT OF PUBLIC INTERNAL FINANCIAL CONTROL ON PUBLIC ADMINISTRATION IN CROATIA

Vesna VAŠIČEK
University of Zagreb
Croatia
Martina DRAGIJA
University of Zagreb
Croatia
Mirjana HLADIKA
University of Zagreb
Croatia

Abstract

The PIFC /Public Internal Financial Control/ was developed by the European Commission. PIFC is set of principles internal financial controls system established for the purpose of controlling, auditing, supervise on the use of national budget and European Union budget and funds. Also, in order to support candidate countries in their internal control system reforms in the public sector. Therefore, it is expected for the candidate countries to establish and develop the system of internal financial controls according to the concept which was in that field developed by the European Union based on International Standards and the best practice of European countries.

Since the year 2003 the Republic of Croatia undertakes intensive activities on the establishment and development of the internal financial control system according with the regulation of European Union. In keeping with the set concept, the Republic of Croatia undertook numerous activities during the past six years to create all the necessary assumptions for the establishment and development of the system, including: the adoption of the initial strategic documents; drafting of laws; the creation of organisational capacities and human resources; and the implementation of the system with budget users at central government and local levels.

In this paper we will present phases of implementation PIFC in Croatian Public Sector. Through this phases we will show impact that PIFC has on development of New Public Management in Croatia and changes in organizational structure and human resource that are caused during this process. Also, we will give critical opinion of that process and problems which occur during implementation.

In this paper we will present approach in implementation of PIFC in Slovenia and Bosnia and Herzegovina and compare this with implementation in Croatia.

INTRODUCTION

The PIFC /Public Internal Financial Control/ was developed by the European Commission. PIFC is set of principles internal financial controls system established for the purpose of controlling, auditing, supervise of the use of national budget and European Union budget and funds. Also, in order to support candidate countries in their internal control system reforms in the public sector. Therefore, it is expected for the candidate countries to establish and develop the system of internal financial controls according to the concept which was in that field developed by the European Union based on International Standards and the best practice of European countries.

Since the year 2003 the Republic of Croatia undertakes intensive activities on the establishment and development of the internal financial control system according with the regulation of European Union.

In keeping with the set concept, the Republic of Croatia undertook numerous activities during the past six years to create all the necessary assumptions for the establishment and development of the system, including: the adoption of the initial strategic documents; drafting of laws; the creation of organizational capacities and human resources; and the implementation of the system with budget users at central government and local levels.

In this paper, phases of implementation PIFC in Croatian Public Sector will be presented. Through these phases we will show impact that PIFC has on development of New Public Management in Croatia and changes in organizational structure and human resource that are caused during this process. Also, we will give critical opinion of that process and problems which occur during implementation. Finally, we will present approach in implementation of PIFC in Slovenia and Bosnia and Herzegovina.

2. DEVELOPMENT OF NORMATIVE AND INSTITUTIONAL FRAMEWORK OF PIFC IN THE REPUBLIC OF CROATIA

Currently in Croatia, intensive activities in preparation Croatia for the membership in the European Union are something that is most interesting. In that context, requirements for reforms in the public sector are more and more highlighted and expressed. In the process of enlargement of the EU, one of requirements of European Commission is that all candidate countries establish and develop their own system of internal financial controls in the public sector (PIFCS – Public Internal Financial Control Systems) and also implement mentioned system in the government units.¹⁴⁸ Adaptation of public internal financial controls system to the European standards, with the purpose of public administration reform and establishing of

¹⁴⁸ Analyzing internal and external control systems in the EU member states and candidate countries for membership in the EU has led to the conclusion that there are present large differences in the methods, organization and procedures of implementation of control. The fact is that the control system of one country may not be applicable or equally successful in other countries. Based on these insights, the European Commission formed opinion that the area of financial control, in order to more clear and comprehensive definition of the term internal control in the public sector and with a desire to avoid mistakes and misunderstandings including the coverage of this term, uses the term PIFCS (internal public financial control systems) - system of internal financial control in the public sector. To avoid terminological confusion term **PIFCS should be understood as a coherent and unified system of control which content includes internal audit and internal control, i.e. FMC - financial management and internal control**. The above mentioned term has first of all aim to define systems, processes and methods, and not the institutions that carry out internal control or the organization itself and ways of implementation.

its administrative capacity, is for every government one of the priority areas in the process of approaching to the EU. The Republic of Croatia has undertaken a series of activities on implementation of PIFC in their public sector.¹⁴⁹

In the pre-accession negotiations with the Republic of Croatia, the EU Commission stated that the negotiating chapter 28 Financial control requires significant adjustments to EU requirements. During year 2002, through the project CARDS 2002 "Development of internal financial control in the public sector and internal audit" began the process of introducing PIFC in Croatia. The project CARDS 2004 "Further development and strengthening of the internal financial controls system in the Republic of Croatia" continued the activities of the previous project, with an emphasis on the development of FMC - Financial Management and Internal Control and the implementation of the PIFC in the local units.

Also, normative framework was amended and several strategic documents were adopted with the aim to organize and sustain the system of internal financial controls in the public sector. Development strategy of PIFC¹⁵⁰ was defined and also it was several times redefined and adopted by the Government of the Republic of Croatia. With these strategic documents government of Croatia clearly pointed out importance and significance of the implementation of PIFC in Croatia and has made efforts to integrate the development of PIFC with other reform processes in the public sector in Croatia.¹⁵¹

With the Budget law¹⁵², in the year 2003, the liability of organizing internal audit and existence of the basic elements of financial management and internal controls was prescribed. At the end of 2006 Public Internal Financial Control Act¹⁵³ was adopted in order to encourage greater development of PIFC and to strengthen legislative liability of implementation. Firstly, based on Budget law, and after based of Public Internal Financial Control Act, Croatia drafted the Regulation on internal audit of budgetary users and Regulation on implementation of

¹⁴⁹ Knowledge about theoretical framework and consequently the distinction between the terms internal audit and internal controls that was partially implement into normative framework of the development of PIFC in Croatia distinguishes the following basic components: financial management and internal control (FMC - Financial management control) and internal audit. Defining terms of internal control and internal audit, the question linked with demarcation between them and the content differences appear. A problem of demarcation scope of internal control and internal audit in the public sector in some way is minimized, and emphasis is put on the overall control through the definition of PIFCS – public internal financial control system.

¹⁵⁰ Development strategy of internal financial control (PIFC - Public Internal Financial Control) in the Republic of Croatia was adopted at the session of the Government on 15 June 2005. This is an enhanced version of the document which was first adopted at the government session on 2 September 2004. Third strategy for development of internal financial controls in the public sector was adopted on 22 September 2009 www.mfin.hr/adminmax/docs/PIFC_Strategija_konacno-15092009.pdf

In November 2007, for the local level was made the strategy of an independent development of internal financial control in the public sector for the Croatian local and regional (regional) government, which refers to the period 2007-2010

¹⁵¹ See Stepic, D. (2009) Development Strategy of the system of internal financial controls in the Croatian public sector for the period of 2009-2011. RIF's Treasures Journal of accounting, auditing, finance and law in the budget system and the non-profit sector 09/2009

¹⁵² Official Gazette (2003) Budget law, Zagreb.

¹⁵³ Official Gazette (2006) Public Internal Financial Control Act, Zagreb.

financial management and control in public sector that helps institutional, organizational and operational implementation of PIFC.¹⁵⁴

The intention of the overall normative framework is to improve public resources management and head of government units is for that primarily responsible. His primary task is to establish a system of internal financial controls and improve management within its jurisdiction, in his units. Insisting on the responsibility of head of government units leaders clearly defined that implementation of public internal control systems should contribute to improvement of management processes in the public sector.

In that system there are two basic components that are necessary to develop and implement in the public sector (for state and local level);

- financial management and control, and
- internal audit.

Establishment of system of financial management and control is the obligation of all budgetary users, regardless of their size measured by the number of employees and financial resources at their disposal. With this fact it is highlighted intention of the Act that all users of budgetary funds have an obligation to manage budget funds in a proper, ethical, economical, efficient and effective manner, its business must be align with the laws, regulations, policies, plans and procedures, protection of property losses caused by poor management, unjustified wear and use, and by irregularities and fraud by strengthening accountability for the successful realization of the task and the obligation to timely financial reporting and tracking of business results.¹⁵⁵

The head of government units has been recognized as responsible person for establishment of efficient and effective system of financial management and control. He can transfer his responsibilities to other people through all sorts of documents about internal organizations and work methods, but this does not exclude his liability. Namely, it is assumed that the obligations of the head of government are multiple and therefore he will not be allowed to do operational establishment in connection with implementation of financial management and control. So, he has the opportunity to appoint the head manager or coordinator to establish financial management and control. Transferring authority and responsibility for the operational establishment to the manager or coordinator does not exclude the responsibility of the head of government units. It can be concluded that if the head of government do not realize their own responsibility and need for the establishment of this system, and if he do not establish a quality communication with staff that is in charge for establishment (manager, coordinator), and with all other employees, he will not establish an effective system of financial management and control.

The procedure of establishment of financial management and control is based on the application of International standards of internal control. Here are highlighted mutually

¹⁵⁴ In the year 2004, for the first time on the basis of the Budget law the Regulation on internal audit of budget users (Official Gazette 114/04) was passed and it was amended and supplemented in the year 2005 by Regulation on internal audit of budget users (Official Gazette 150/05).

On the basis of the Public Internal Financial Control Act the regulation on the internal audit of budget users (Official Gazette 35/08) was adopted and also Regulation on the implementation of financial management and control in the public sector (Official Gazette 35/08).

¹⁵⁵ According to the Article 6 of the Act, see Official Gazette (2006). Public Internal Financial Control Act. Zagreb, Official Gazette, 141.

related system components: control environment, risk management, control activities, information and communications, monitoring and assessment of the system.¹⁵⁶

Establishment of the system of financial management and controls is a process that requires a certain amount of time with a clear introduction of the activities and shared responsibility for the final result. In accordance with the normative framework it is necessary to create a plan of financial management and control, and in this way determine the time and the human component in the execution of this task. The plan will indicate the deadlines within the system will be established, that is the deadlines within business processes of budget users will be listed, and then the business processes will be described with the use of flowchart diagram. Consequently, a map of the process will be formed and then will start with the identification of risks, which means the evaluation and ranking of risks with the purpose of managing those risks. Furthermore, internal controls will be estimated, existing and required controls will be analyzed, and plans for the removing weaknesses of internal controls will be create and the period of monitoring of these plans will be determined.

In the establishing of internal audit, the following areas are highlighted:

- role and purpose of internal audit,
- way of establishment an internal audit,
- conditions for making internal audit – internal audit as a profession,
- way of achieving the independence of internal auditor or internal audit unit,
- standards and methodology of work internal auditor, and
- obligations of head of unit and cooperation with other bodies.

In accordance with the widely recognized role of internal auditor, it is defined the scope of internal audit in the public sector in the Republic of Croatia.

Internal audit¹⁵⁷ a) is a part of comprehensive system of internal financial control in public sector, b) is an independent and objective activity that gives expert opinion and advices with the aim of adding value and improving budget users operating, c) helps budget user in achieving the goals using a systematic and disciplined approach of evaluation and improving the efficiency of the process of risk management, control and management.

Internal audit are obliged to carry out the budget users defined according to the following criteria:

- size (if they employ more than 100 employees (on the state level) or 50 employees (on the local level) and have annual expenditure and expenses more than 30 millions of Croatian kuna),
- and other criteria (local government units that have centralized functions) and
- all who are using the European union funds.¹⁵⁸

¹⁵⁶ As a framework for the development of financial controls, in the Public Internal Financial Control Act, are determined the International Internal Control Standards. All activities related to financial management and controls are established in accordance with the COSO model, which was adopted by the Committee of Sponsoring Organizations of the Treadway Commission. According to the COSO framework, internal control consists of five mutually related components that are implemented and explained through articles/ provisions 9. to 14. of the Public Internal Financial Control Act.

¹⁵⁷ Article 16, The Law on system of Internal Financial Controls in Public Sector, Official Gazete, No. 141/2006.

¹⁵⁸ According to the Regulation on the internal audit of budget users, Official Gazete, No. 35/2008.

The independence of internal audit unit and independence of internal auditors are prescribed as one of the essential conditions for performance their duties.

According to law is prescribed that internal audit is conducted in accordance with:

- a) International Internal Auditing Standards, and
- b) directives and guidelines that regulate the internal audit in Croatia.

The detailed guidelines that govern internal audit are: The Charter of Internal Auditor, Code of Professional Ethic of Internal Auditors and The Manual for Internal Auditors, which are made by Central harmonized unit and which are authorised by Minister of finance.

Ministry of Finance is responsible for coordination of establishment and development of this system. Directorate for harmonization internal audit and financial control is responsible for implementation of coordination. This Directorate has changed its constitution and has adjusted it to the further development of the system of internal financial controls. Emphasis of the new constitution from 2009 year is placed on developing methodologies and standards of internal audit and control, on the coordination of education and quality assessment, as well as international cooperation, primarily with partners in the European Union.¹⁵⁹

Understanding the importance of education employees in the state administration with the needs and obligation of constitution of the internal control in public sector there are organised seminars, workshops and lectures. There are also prepared manuals and instructions that provide the adoption of a common methodology of work and reporting those persons who are involved in the system of financial management and control and internal audit. Certification of internal auditors is conducted.¹⁶⁰

3. PROGRESS IN IMPLEMENTATION AND FUTURE DIRECTIONS OF DEVELOPMENT OF PIFC

A short study will be presented for the purpose of understanding how PIFC develop in Croatia. That study is conducted at the beginning of the introduction of PIFC.

During the year 2005, empirical research has been conducted on a sample of 101 budget users through a questionnaire¹⁶¹, which was aimed to investigate the presence, organization and

¹⁵⁹ Constitution and scope of work is defined by the Regulation on Internal Organization of the Ministry of Finance [www.mfin.hr/hr/zakonodavstvo?id=11&type=zakon].

¹⁶⁰ Professional authority to conduct an internal audit is issued by the Minister of Finance. Training is conducted at the Ministry of Finance by the Directorate for harmonization internal audit and financial control.

¹⁶¹ The survey was conducted during year 2005. The analysis has taken 101 returned and completed survey questionnaire which can be considered from the standpoint of research requires a significant level of data collected. Surveyed expressed relative, 58.62% of budget users financed from the state budget, 36.21% of budget users financed from local budgets, and 5.17% of extra-budgetary users. Most common are the bodies of local government (46.53%), and after that are institutions (27.72%) and government bodies (24%). According to the number of employees that are budget users who have mostly up to 50 employees (62.8% of respondents), after that 50-100 employees has 20.88% of respondents, from 101-200 employees and from 201-500 employees has 6.59% respondents, and finally more than 500 employees has only 3.3% respondents. Annual revenue is with the biggest relative frequency in the range of 1-5 million kuna has 28.89% of respondents, ranging from 5-10 million kuna has 18.89% of respondents, and more than 50 million kuna has 26% of respondents. The total value of the property which has a budget user is correlated with an annual income and the biggest relative frequency is in the range of 1-5 million kuna has 24.39% of respondents, 5-10 million kuna has 15.85% of respondents, 10-20 million kuna has 12.19% of respondents, and more than 50 million kuna has 19.51% of respondents.

functioning of the internal and external control in the public sector in Croatia.¹⁶² Below are summaries of survey results presented in the part of analysis of internal control systems for budget users.

The part of mentioned research dealt with **the issues of understanding the importance and function of internal controls**. In the questionnaire there was a question about understanding what the internal controls are (definition). From the given results it can be concluded that the respondents are not fully familiar with the contents of internal controls and that there is no complete understanding of the differences between various forms of supervision, particularly between internal controls and internal audit.¹⁶³ This conclusion suggests the need to educate employees to understand the importance and function of internal controls, particularly the role of all employees in that process.

It turned out that in development of comprehensive system of internal financial control emphasis was placed on the development of internal audit and that internal control systems development was neglected. Internal auditors receive task (by the standards of internal controls and rules of the profession) to evaluate internal control, but budget users have not defined them. The fact is that the project CARDS 2002 "Development of PIFC and Internal Audit" was primarily aimed to develop internal audit. CARDS 2004 "Further development and strengthening of internal financial controls in the Republic of Croatia" continued activities of the previous project with greater emphasis on the development of financial management and internal control. This has helped to solve misunderstanding about who is responsible for establishment of internal control systems and on what why it is needed to establish implementation of internal controls system.

Also, empirical research dealt with the question **of the extent to which the control environment is "ripe" and ready to establish internal controls system**. In the part of the willingness to accept the internal control system, research results indicates the need for precise delimitation of authority and responsibilities, and delegating responsibility to lower levels in order to create preconditions for the establishment and survival of internal controls system. In doing so, it is equally important to change management philosophy and styles and to educate all employees to understand what internal controls really are. Only on that way it is possible to establish the internal control system by budget users.

In choosing answers **about what is considered to be the main reason for the absence or no implementation of internal control procedures** here are presented most frequent reasons:

The employees do not have the knowledge and skills for the implementation of internal controls

Lack of documented and regulated control procedures for each individuals at all levels and in all parts of the organization

¹⁶² Full results are published in the paper: Vašiček, V. (2006) The scope and organization of internal control in public sector. IX Consulting Internal Audit and Control, Poreč, October 2006. Zagreb: Croatia Board of accountants and financial professionals.

¹⁶³ In defining what internal control are, 34.94% of respondents answered that this is an internal audit department that specializes in testing and evaluation of the totality of the functioning of business processes and provides the opinion for improvement of mentioned process, 10.84% respondents answered that it is the internal control department in which the officers are engaged with control activities, 33.74% of respondents recognized that the internal control are integrated system of control procedures built into the business processes of the organization, while 8.44% of the respondents defined control procedures as only partial controls that are integrated in certain business processes

Lack of supervision on the work of head of government units and lack of accountability for the head of government units for the introduction of internal controls

Lack of documented demarcation of authorities and responsibilities between employees

Lack of understanding of internal control procedures

Inadequate organizational structure and unclear internal communication

Inappropriate requirements of head of government units for professional competence of employees.

The study confirmed the existence of some form of control and partial control in some parts of process or in the whole process.

In response to question about **areas that have developed some form of control** by the frequency response, here is presented following scale of positive responses:

Control of non-cash and cash business transactions (72.53% of respondents)

Payroll accounting (70.33% of respondents)

Procurement, ordering and payment of invoices (61.54% of respondents)

Control of the accounting system and accounting reports (54.95% of respondents)

Document management (21.99% of respondents)

Control of the acquisition and disposition of capital assets and stocks (15.38% respondents)

A small share in responses has information technology control (6.59%) and portfolio management (2.19%).

According to the mentioned areas in which the control methods are present, it is obvious that the control is significantly developed in some areas. Most of them are based on inherited (traditionally) controls and on the obligations to control that are imposed by certain laws and regulations.

In most cases existing control system is not established taking into account the goals that the organization wants to achieve. Existing controls are mostly “inherited” and are not systematically set up, and mainly relate to the control of legality and regularity, and almost no on the control on the economy, efficiency and effectiveness.

Empirical research has shown that the main barriers in the implementation would be the control environment and insufficient educated and motivated employees, especially management structure. Above was confirmed during the implementation.

“It is notable that the established internal financial control systems are still not fully integrated into existing management processes, and often represent “supplement” to existing management processes.”¹⁶⁴ Therefore, the strategy emphasized the need of cooperation and communication between internal auditors and management structure with the aim of using auditor findings and to be truly added value. Avoidance of parallelism in terms of parallel structure of governance and oversight is not fully successful. Parallelism is noted in the existence of two internal control systems: the national funds and the European Union funds.

¹⁶⁴ Stepić, D. (2009) Strategy for Development Internal Financial Controls in the Croatian Public Sector for the period of 2009-2011. *Treasure, Journal of accounting, auditing, finance and law in budget system and non-profit sector*. No. 9.

Procedures to withdraw funds from the pre-accession EU funds, based on clear legal regulations, impose the development elements of management controls. Knowledge and experience gained for the management of EU pre-accession funds is not integrated and used for the management of national (budgetary) resources.

Wider control environment is important for the development of internal control systems in public sector. Control environment should encourage, but not restrict the development of internal control system, and it include: a strong and central responsibility of the Ministry of Finance for financial transactions, uniform accounting standards and clear and transparent reporting, defined responsibilities and competence of employees, a strong state audit and other forms of external oversight.¹⁶⁵ In the Republic of Croatia was initiated a series of reform processes in these areas, especially in the budget area that is an assumption of an effective internal control system.¹⁶⁶ It is important to strengthen financial management and control processes that are crucial for the quality management of budget funds. Budgetary reforms are going in the direction of strategic planning and development of planned and programming stages of the budget cycle. Also, they put on greater emphasis on achieving goals and achieved results for the invested budget funds. Emphases in the spending of budget funds by using program planning are on the defining of program objectives and performance indicators, which requires the development of accounting framework in the area of cost accounting and management accounting. Strengthening the internal control system in the processes of planning and programming, execution, accounting and reporting is the backbone of development and guarantee the successful implementation of internal financial control system.

Broadly set out concept that is aimed at the all business processes showed difficulties in the application and is deciding to focus on the basic budgetary processes as the most important area of control. For these processes, particularly in terms of budget execution through treasury system, there are standardized and regulated procedures, which assume that perform on the same way by all users. "Towards to achieve more efficient use of limited audit resources and the fact that some equivalent processes taking place in more or almost by all budget users, in the next budget period it will be organized so-called enforcement "horizontal" audit."¹⁶⁷ Furthermore, it anticipates enforcement of "vertical" audit which include process audit more interrelated budget users. Between those budgetary users, business process is conducting on a way that a part of activities is conducted by one budgetary user and a part of activities of the same process is conducted by another budgetary user. These strategies of work of internal audit are in the direction of better use of existing human resources and accelerating the process in terms of achieving the benefits of the implementation of Public Internal Financial Controls.

¹⁶⁵ According to Allen, R., D. Tommasi (2001) *Managing Public Expenditure, A Reference Book for Transition Countries*. Paris: OECD, SIGMA Program. pp. 263

¹⁶⁶ Normative framework of the budgetary system reform is made by the Budget Act of 2003, and continued in Budget Act of 2008. Legal framework introduces more advanced approach to budgetary planning and programming, accounting framework and reporting, budget execution through treasury system, controlled borrowing and successful management of public debt and deficit, etc.

¹⁶⁷ Stepic, D. (2009) *Strategy for Development Internal Financial Controls in the Croatian Public Sector for the period of 2009-2011*. Treasure, Journal of accounting, auditing, finance and law in the budget system and the non-profit sector, No. 09.

From the beginning of establishing internal financial control system are obvious results that were achieved in the field of legal regulations, development of methodologies and standards of work, training staff and the partial establishment by a certain number of budgetary users. These activities have been successfully fulfilled according to the criteria for reconciliation which were set out in Chapter 32 - Financial Control. According this chapter, Republic of Croatia performs reconciliation with the European Union in the area of internal financial control system.

While on the one hand performance indicators are obvious in meeting the criteria for access, on the other hand improvements in management of budget funds that result with implementation of this system for budgetary users are not sufficient. Therefore, the development is strategically focusing on the need that internal financial control systems are fully integrated into existing management processes and especially in the budgetary processes.

4. COMPARATION OF APPROACHES IN IMPLEMENTATION OF PIFC IN BOSNIA AND HERZEGOVINA AND SLOVENIA

4.1. Experience of Federation of Bosnia and Herzegovina

Bosnia and Herzegovina is administratively divided into two entities, the Federation of Bosnia and Herzegovina and the Serbian Republic and the District Brčko. Federation of Bosnia and Herzegovina is administratively divided into 10 cantons which are making out from 79 municipalities. The Serbian Republic has 62 municipalities while the District Brčko is a single entity¹⁶⁸. From the previously mentioned administrative structure in Bosnia and Herzegovina it can be shown that it is very complex territorial structure that has high level of autonomy of individual components of Bosnia and Herzegovina. Also, it has high level of fiscal decentralization of public functions and services.

The above-mentioned structure in Bosnia and Herzegovina makes difficult to adjust only one approach in development of PIFC.

The entities have legislative and executive autonomy, which in some matters belongs also to the cantons, and result of that is a different legal framework and regulation of the same area. However, there was series of attempts at harmonization of regulations in the Bosnia and Herzegovina on the legislative level to create the preconditions for legislative and economic integration of all territory of Bosnia and Herzegovina and integration into the EU. Below, for the purposes of this paper, we will follow the legislative framework at the level of the Federation of Bosnia and Herzegovina and we will not illustrate the differences between mentioned entities.

Legal framework of public expenditure is based on the Budget law.¹⁶⁹ All levels of government, budgetary and extra-budgetary users are financed from the budget fund. The Budget law introduces the obligation to structure the system of internal controls and internal audit. Budget users are obliged to regulate the system of internal control in accordance with international standards of internal control and by doing so they will ensure the carrying out of

¹⁶⁸ Source: the Statistics Agency of Bosnia and Herzegovina, www.bhas.ba/new/BiHStats.asp

¹⁶⁹ Budget Law of the Federation of BiH, Official Gazette FBiH 19/06, amendments 78/08 and 4/ 09.

In the FBiH, all regulations are published in each of the official languages: Bosnian, Croatian and Serbian.

activities within the core business. Ministry of Finance makes the instructions for setting up and maintaining systems of internal control. Budget users are obliged to adopt regulations on internal controls. Also, liability for setting internal audit is prescribed.

During the year 2008, the next step is done and the Law on Internal Audit in the public sector in the Federation of Bosnia and Herzegovina is adopted. This Act provides normative framework for the development of internal auditing in the public sector. The establishment of the Central Harmonization Unit was defined with the aim to coordinate and supervise the functioning of the internal audit and as a strategic and methodological help to develop the profession. Central Harmonization Unit has an obligation to implement training programs and certification of internal auditors. Before the establishment of normative framework, there was a certification of the internal auditors through the Institute of internal auditor (professional association of internal auditors). It follows that the need for the development of internal financial controls has recognized profession, which in this sense inform, educate and adopt international standards in this area before this became a legal obligation.

It can be concluded that the emphasis is placed on development of internal audit, which has developed certification and normative framework. However, realization of the necessity of implementation of internal financial control must reach public management in order that this process is indeed successful. There is justified fear that the system of internal control is not recognized as an important management concept that is necessary for the improvement of the budgetary process.

4.2. Implementation of PIFC in Slovenia

Republic of Slovenia is from the 1th May of year 2004 member of the European Union, but before Slovenia joined to the EU it had to implement public internal financial control system in the government units. The process of implementation of PIFC in Slovenia began in September 1999. with the new Public finance law. Slovenia has not adopted a separate law on PIFC as it is the case in Croatia, because PIFC was implemented within the Public finance law. According to the Amendments on the Public finance law from year 2002, the public internal financial control system in Slovenia was updated in a way that strengthened the role of the central body for the development of methodology and coordination of financial management and control.

The public internal financial control covers on a unified system based management, controls and internal auditing, provided by direct and indirect spending centre, with the purpose to manage its operations and ensure achieving of objectives in accordance with the principles of legality, expedience and transparency. Internal controls cover the system of procedures and methods for management of risks, which might threaten:¹⁷⁰

- achieving of set business objectives,
- transparency of operations in accordance with laws, regulations and managerial instructions,
- economic, efficient and effective use of resources,
- safeguarding of resources from losses resulting from negligence, misuse, inefficient management, errors and fraud,
- accurate, complete and reliable reporting.

¹⁷⁰ www.unp.gov.si/en/public_internal_financial_control/

So in Slovenia, internal auditing is an independent, objective assurance and consulting activity designed to improve the budget spending centre's activities. Internal auditing helps the budget spending centre accomplish its objectives by bringing a systematic and disciplined approach to improve the effectiveness of risk management, internal controls and governance processes. Currently in Slovenia, there are about 360 state internal auditors, while in Croatia there are around 220 state internal auditors. It can be concluded that Croatia should follow Slovenia as an example in implementation of PIFCS in their government units.

Also in Slovenia, the Budget Supervision Office is a central body of the public internal financial control system responsible for development, harmonization and supervision of the financial management and internal control system as well as internal audit of direct and indirect budget spending centers on the central and local level.¹⁷¹ Therefore, the Budget Supervision Office has taken the role of the Central Harmonization Unit.

In the field of spending of the EU funds the Budget Supervision Office performs pre-accreditation reviews, independent control of expenditures, certifies declarations of expenditures and issues winding-up declarations. It regularly reports to the European Commission on irregularities regarding the use of EU funds, acts as the contact point of the European Anti-Fraud Office (OLAF) and coordinates activities referring to the protection of EU financial interests.

5. CONCLUSION

In recent years, Croatia is intensively preparing for accession to the European Union, and therefore is taking a series of activities to comply with the requirements of the European Commission. Also, one of these activities is establishment and development of PIFC which implies a reform of public administration and its administrative capacity. For this activity Croatia has 6 to 8 years, but normally this process last 15 to 20 years and from this it can be concluded that this demands extreme effort to develop PIFC in such sort period.

Until today, Croatia has done very much according with requirements of the EU. Development Strategy of PIFC was several times defined, also Public Internal Financial Control Act was adopted in order to strengthen the legal obligations of implementation.

Empirical research in the year 2005 about functioning of external and internal controls in Croatia have shown that public administration is not familiar with the contents of internal controls and internal audit and that public administration does not have appropriate knowledge and skills for implementation of internal controls in the government units.

Strategy of development Public Internal Financial Controls¹⁷² adopted in 2009 years is based on the fact that in the period up to year 2009 a normative framework and created organizational capacity is established and that future development should focus on

¹⁷¹ www.unp.gov.si

¹⁷² Third serial Strategy for Development Internal Financial Controls in Public Sector was adopted on 22nd of September in 2009. [www.mfin.hr/adminmax/docs/PIFC_Strategija_konacno-15092009.pdf]

strengthening the role of internal controls in management processes and a stronger connection with other reform processes.

Experience of our neighbors is useful source of information that can help Croatia to accelerate its path towards the European Union. This primarily refers to the Republic of Slovenia, which has successfully done public administration reform and has implemented PIFC in the public sector of Slovenia. While, Bosnia and Herzegovina could learn from the experience of Croatia how to improve its potential for negotiations on future membership in the European Union.

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REGULATORY REFORM - REGULATORY IMPACT ASSESSMENT

Kostantinos TSIMARAS
Ionian University
Greece

Abstract

In the mid-1990 for the first time in post-war period Greek strategies for economic development shifted markedly to reliance on market forces rather than a downward spiral in economic performance, ultimately resulting in crisis and discrediting the traditionally interventionist and regulatory role of the Greek state in economy. Today there are new opportunities for much-needed reforms. The many significant reforms underway reforms are accelerating structural adjustment creating a new economy that is more flexible and competitive.

INTRODUCTION. REGULATORY IMPACT ANALYSIS

Regulatory Impact Analysis (RIA) is a fundamental tool to help governments to assess the impacts of regulation. RIA is used to examine and measure the likely benefits, costs and effects of new or existing regulation. The implementation of RIA supports the process of policy-making by contributing valuable empirical data to policy decisions, and through the construction of a rational decision framework to examine the implications of potential regulatory policy options. This is an important factor in responding to the impact on modern economies of open international markets and budgetary constraints, and the consequences of competing policy demands. A key feature of RIA is its consideration of the potential economic impacts of regulatory proposals.

RIA is an essential policy tool for regulatory quality. The overall aim of RIA is to assist governments to make their policies more efficient. The use of RIA can contribute to the policy-making process by promoting efficient regulatory policy and improved social welfare. Extensive literature has been produced containing information about its introduction, lessons learned from implementation and challenges encountered by governments.

I. THE OECD REFERENCE CHECKLIST FOR REGULATORY DECISION-MAKING

1. Is the problem correctly defined?

The problem to be solved should be precisely stated, giving evidence of its nature and magnitude, and explaining why it has arisen (identifying the incentives of affected entities).

2. Is government action justified?

Government intervention should be based on explicit evidence that government action is justified, given the nature of the problem, the likely benefits and costs of action (based on a realistic assessment of government effectiveness), and alternative mechanisms for addressing the problem.

3. Is regulation the best form of government action?

Regulators should carry out, early in the regulatory process, an informed comparison of a variety of regulatory and non-regulatory policy instruments, considering relevant issues such as costs, benefits, distributional effects and administrative requirements.

4. Is there a legal basis for regulation?

Regulatory processes should be structured so that all regulatory decisions rigorously respect the “rule of law”; that is, responsibility should be explicit for ensuring that all regulations are authorised by higher-level regulations and consistent with treaty obligations, and comply with relevant legal principles such as certainty, proportionality and applicable procedural requirements.

5. What is the appropriate level (or levels) of government for this action?

Regulators should choose the most appropriate level of government to take action, or if multiple levels are involved, should design effective systems of co-ordination between levels of government.

6. Do the benefits of regulation justify the costs?

Regulators should estimate the total expected costs and benefits of each regulatory proposal and of feasible alternatives, and should make the estimates available in accessible format to decision-makers. The costs of government action should be justified by its benefits before action is taken.

7. Is the distribution of effects across society transparent?

To the extent that distributive and equity values are affected by government intervention, regulators should make transparent the distribution of regulatory costs and benefits across social groups.

8. Is the regulation clear, consistent, comprehensible and accessible to users?

Regulators should assess whether rules will be understood by likely users, and to that end should take steps to ensure that the text and structure of rules are as clear as possible.

9. Have all interested parties had the opportunity to present their views?

Regulations should be developed in an open and transparent fashion, with appropriate procedures for effective and timely input from interested parties such as affected businesses and trade unions, other interest groups, or other levels of government.

10. How will compliance be achieved?

Regulators should assess the incentives and institutions through which the regulation will take effect, and should design responsive implementation strategies that make the best use of them.

Source: OECD (1995), The 1995 Recommendation of the Council of the OECD on Improving the Quality of Government Regulation, Paris.

II. DEFINITION OF REGULATORY IMPACT ANALYSIS

RIA is a systematic policy tool used to examine and measure the likely benefits, costs and effects of new or existing regulation. A RIA is an analytical report to assist decision makers. Typically, the core structure should contain the following elements:

- title of the proposal,
- the objective and intended effect of the regulatory policy,
- an evaluation of the policy problem,
- consideration of alternative options,
- assessment of all their impacts distribution,
- results of public consultation,
- compliance strategies,
- and processes for monitoring and evaluation.

Generally, the effective use of RIA depends upon the process for the preparation of analytical reports to be embedded in a system or process for policy decision making. In that sense, RIA fits into the policy-making cycle and supports this process by contributing valuable empirical data to policy decisions, and through the construction of a rational decision framework to examine the implications of potential regulatory policy options. To be effective, RIA should not become a bureaucratic add-on task.

RIA might be understood as a document or analytical report, but more broadly it is a system or process to question policy proposals. The overall aim of RIA is to assist governments to

make their policies more efficient. This is an important factor in responding to the impact on modern economies of open international markets and budgetary constraints and the consequences of competing policy demands. A key feature of RIA is its consideration of the potential economic impacts of regulatory proposals. This will be more effective if RIA is part of an overall strategy of regulatory management and reform. Building a RIA system requires the consideration of a number of elements that are essential for its success. In order to maximise the benefits of using RIA, the approach should have a long-term perspective and get buy-in from stakeholders.

The use of RIA has expanded rapidly throughout the OECD in the last decade. The successful implementation of RIA in OECD countries has generally been done step-by-step, concentrating initially on specific pieces of regulation and then expanding to the whole regulatory process. When it is undertaken at the earliest stages of the regulatory cycle, at the time when the regulatory objectives are framed and many alternative approaches are available, RIA has proved to be a strong support to improving regulatory decision making.

RIA is not a substitute for policy decision making, but it contributes to its design by providing information, as well as a consistent justification for government action. This remains the case even when information is scarce and data are not readily accessible. The relevance of RIA rests on the potential this tool offers to decision makers to be innovative, using information from available resources.

III. CONSTITUTIVE ELEMENTS OF RIA: THE DOCUMENT AND THE SYSTEM

The process of completing a RIA document is a rational policy process that should follow a number of phases. The complexity and depth of the analysis required is determined by the importance and size of the impact of the policy issue under question. Many guidance documents are available on how to complete a RIA, but in summary, the steps of a RIA should include:

1. Definition of the policy context and objectives, in particular the systematic identification of the problem that provides the basis for action by government.
2. Identification and definition of all possible regulatory and non-regulatory options that will achieve the policy objective.
3. Identification and quantification of the impacts of the options considered, including costs, benefits and distributional effects.
4. The development of enforcement and compliance strategies for each option, including an evaluation of their effectiveness and efficiency.
5. The development of monitoring mechanisms to evaluate the success of the policy proposal and to feed that information into the development of future regulatory responses.
6. Public consultation incorporated systematically to provide the opportunity for all stakeholders to participate in the regulatory process. This provides important information on the costs and benefits of alternatives, including their effectiveness.

Elements integrating RIA	
The process of Regulatory Impact Analysis	
Definition	Policy objectives, policy context
Identification	Regulatory options
Assessment	cost- benefit, other impacts
Consultation	Involving stakeholders
Design	Enforcement, compliance and monitoring mechanisms
After RIA is prepared: DECISION MAKING	

The process of producing a RIA should be iterative and open to input from public consultation. Commonly it has a simple composition when first set up, and is progressively enriched and adapted as experience is accumulated through the consultation and partial completion of other RIAs.

To become effective, a RIA system should be integrated into the policy process so that the reasoning and the discussion regarding the regulation is supported by empirical information that assists the policy makers in making a decision. Evidence-based decisions increase the likelihood that the proposed regulatory response will achieve policy objectives in the most efficient manner without the imposition of unnecessary or unintended economic costs.

IV. MEASURING IMPACTS IN DIFFERENT AREAS OF INTEREST

Approaches to measure impacts of regulations in OECD countries

There are different approaches taken to assessing the impact of regulation depending on the focus or the field of work. Each country's policy objectives have encouraged differentiated priorities:

The Netherlands has adopted a Business Effects Analysis, which is focused on the impacts arising from businesses.

The Czech Republic adopted Analysis of Financial Impacts and Impacts on the Economy, which has expanded to cover other socio-economic impacts. A formalised RIA into the law-making process has been adopted in 2007.

France has developed an *ex ante* assessment methodology to measure regulatory costs to business and to public administration.

Austria and Portugal employ Fiscal Analysis, which focuses on the direct budget costs for government administration.

Finland has a wide range of partial impact analyses covering budget, economy, organisation and manpower, environment, society and health, regional policy and gender equity. These partial analyses are not integrated, and are carried out by various ministries.

Belgium only carries out the risk assessment in case of health, safety and environmental regulations.

Greece, Ireland, Spain and Sweden have a checklist on the impacts arising from regulations.

Mexico has three types of assessments: high impact RIA, ordinary RIA and periodic RIA.

Source: OECD (2004b).

A two-step approach

That RIA processes vary in the nature and extent of analysis can be observed among different countries. Some countries have a process which differentiates between a full RIA and a screening RIA. This two-step approach may be useful for countries that do not have sufficient human and technical resources to undertake fully developed RIA for all regulation. This initial differentiation might also be useful to facilitate a broader use of this policy tool in the regulatory system.

A two-step approach involves a preliminary RIA to identify regulations which should be subject to a detailed RIA. In such cases a filter would be applied to most regulatory proposals, and a full RIA undertaken only for certain proposals, on the basis of defined thresholds. These thresholds may be expressed in monetary terms of costs and benefits implications (for example in Korea for regulatory proposals whose costs exceed 10 billion won, US\$100 million in the US, \$50 million in Canada) or on issues such as the extent of the impact on competition, market openness, employment, productivity, innovation, investment as well the number of people affected by the proposed regulation. In some cases the fact that a regulation is required for compliance with international standards is taken as a factor for deciding that a detailed RIA should not be applied. Other criteria for not conducting a full RIA could be a disproportionate impact on a sector or the level of media interest.

Depending on the obstacles to implementation, consideration could be given to taking a partial approach to initiating a RIA programme. Governments need flexibility to carry out impact assessments and should be realistic about the financial and human resources that are required. A partial approach can help to establish a basis for impact analysis that can be expanded once the capacities have been strengthened and the benefits of such procedure have been identified.

Good practices for introducing effective RIA systems

If countries are to integrate a systematic use of RIA, lessons learnt from international experience could provide a valuable input to their project design. Many countries have gone a long way reflecting on institutional and contextual components of regulatory decision-making. The good practices identified by the OECD for an effective introduction of RIA can serve as a basis to build an initial framework for RIA introduction in countries where there is not yet an institutionalised procedure of systematic regulatory impact assessment.

The next section provides a framework to avoid obstacles to RIA introduction and encourages a self-assessment to identify potential possibilities for RIA implementation. The following sections concern initial elements to consider for RIA as well as for RIA design and implementation following OECD practices and providing concrete examples.

Challenges and risks

There are several challenges common to most countries when starting to implement RIA:

Insufficient institutional support and staff with appropriate skills to conduct RIA. In most cases the whole concept of RIA is difficult to understand if regulators have not dealt with it previously. In the process of implementing RIA technical problems are continuously faced, and a lack of solid and continuous training has hindered efficiency and effectiveness. If the inclusion of RIA in the policy-making process does not actively involve policy officials, there is a high risk of having a burdensome bureaucratic process instead of a useful tool for analysis.

Limited knowledge and acceptance of RIA within public institutions and civil society reduces its ability to improve regulatory quality. The opportunity could be missed to improve public participation in the regulatory process through consultation.

Lack of reliable data necessary to ground RIA, as well as finding appropriate indicators to facilitate the measurement of the regulatory impact.

Lack of a coherent, evidence-based and participatory policy process. RIA by itself will not solve all the problems in a regulatory regime. Key supporting elements should also be encouraged and used in order to ensure results. Among them, public consultation plays a fundamental role to collect information and to integrate different views from those affected directly by regulation.

Indifference by the public administration, mainly due to inertia in the political environment, is potentially one of the most significant obstacles to an effective RIA system.

Opposition from politicians concerned about losing control over decision-making. Other challenges to RIA are a rigid regulatory bureaucracy and vested interests which oppose reforms. It is important to make clear that RIA does not weaken the decision making process, but supports it by offering evidence based regulatory options.

These challenges need to be taken into account from the beginning of the systematisation of RIA, and kept in mind as the road map for RIA implementation is defined and followed.

The following ten key elements are based on good practices identified in OECD countries:

1. Maximise political commitment to RIA.
2. Allocate responsibilities for RIA programme elements carefully.
3. Train the regulators.
4. Use a consistent but flexible analytical method.
5. Develop and implement data collection strategies.
6. Target RIA efforts.
7. Integrate RIA with the policy-making process, beginning as early as possible.
8. Communicate the results.
9. Involve the public extensively.
10. Apply RIA to existing as well as new regulation.

Source: OECD (1997), *Regulatory Impact Analysis: Best Practice in OECD Countries*, Paris.

IV. PRECONDITIONS FOR INTRODUCING RIA

Ensure political commitment;
Stakeholding.

For RIA to succeed, the most obvious stakeholders inside the administration include:

institutions providing advice to the President and/or Prime Minister;
Cabinet of the Presidency and/or Prime Minister;
the Ministry of Justice;
the Ministry of Finance;
the Ministry of Economy and/or Trade;
legal departments of the ministries participating in law making;
the Parliament and its advisory and legal bodies.

This group could be supported by outside stakeholders, in particular representatives from business and consumer associations, and academics, who can provide advice and help to disseminate the knowledge on RIA and the way their interest could be considered at an early stage of the decision-making process. General public support could be promoted through campaigns to raise awareness and build trust through conferences, general media and other means of communication.

Legal mandate for RIA

International experience shows that government should commit to the use of RIA through a clear statement on how to develop a RIA system. A high-level political mandate could define basic standards and principles of quality regulatory policies. Some OECD countries have done this through a law or decree, specifying the coverage and method of RIA to be used. As can be observed in Box 8, the sources of legal support for RIA vary across countries. They could be preceded by other decrees or laws dealing with similar issues.

In the last few years, the trend in OECD countries has led to a wider implementation of RIA as a legal requirement. In 2005 there was a clear majority of OECD countries implementing RIA by law. The most common legal requirement for RIA refers to the need to identify the costs and net benefits of the regulation (see Figure 2).

Legal support should be accompanied by a high-level commitment to the RIA system, which is necessary for successful implementation. A) In some countries, RIA analytical reports are sent to the Parliament so legislators can better judge the quality of new laws and regulations. B.) Another way to express political commitment to RIA and create ownership by politicians is to have the analytical reports signed directly by a minister or a deputy minister.

Legal bases for RIA in selected countries

A legal basis for a RIA system is a good indicator by which we can understand how well the RIA system is being implemented. OECD countries have adopted various legal forms such as a law, presidential decree, executive order, cabinet directive, guidelines of the prime minister, etc. Based on their experience, legal forms can mainly be classified into four groups.

However, implementation also depends on historical background, administrative culture and the commitment of high level officials.

Based on a law: the Czech Republic, Korea and Mexico.

Based on a presidential order: USA.

Based on a prime ministerial decree or guidelines of the prime minister: Australia, Austria, France, Italy and Netherlands, Greece

Based on a cabinet directive, cabinet decision, government resolution, policy directive, etc.: Canada, Denmark, Finland, Ireland, Japan, New Zealand, Norway, Poland, Germany, Portugal, Sweden and the United Kingdom.

Source: OECD (2004b).

Integrate RIA timely in the decision-making process

Build a RIA team inside the administration

Who should conduct RIA

As regulation is a tool used in most government bodies, it should be within these institutions that a RIA is drafted. Building teams to work on RIA is not an easy task, but is essential for the success of the implementation programme.

In addition to political support, RIA also requires technical expertise. Some of the key assets and expertise needed are:

Political. This would help to provide leadership, advice and recommendations to achieve RIA's political objectives and address possible resistance to change.

Legal. Essential to provide advice and recommendations with respect to the application and interpretation of legal instruments, multiple laws and jurisdictions.

Economic. RIA estimates the economic costs of proposed regulations and using economic data for evidence-based analysis.

Communication. This is important to manage internal and external consultations and organise the way the results should be communicated to the public.

In some cases, line ministries and regulators are responsible for conducting RIAs and a technical unit (part of an oversight body) supports and co-ordinates their work and assesses the quality of the analysis. It would be ideal to give the responsibility to specific experts inside the ministries concerned (legal, economic, etc.) who should also be supported by other colleagues who have experience in drafting law proposals.

Institutional setting for RIA

There is not a unique institutional model for a systematic use of RIA. Among OECD countries there is a great variety of institutions sharing different responsibilities and working on the basis of different methodologies.

In general terms, a specialised department or group of experts in each ministry and regulatory institution undertake the RIA work. In order to ensure co-ordination between these bodies and to give coherence to the regulatory system, there are two institutional set-ups in OECD countries:

Centralised institutional frameworks rely on an oversight body for regulatory reform located at the centre of government. Its powers are supported by either the prime minister's office or the budgetary decision-making institution, *e.g.* the ministry of finance.

A decentralised institutional framework does not rely on a specific oversight body; co-ordination between regulators is essential to obtain policy objectives. Responsibilities are normally shared by different regulatory institutions and line ministries, which use extended consultation mechanisms to find agreements and consensus.

V. DESIGNING THE RIA FRAMEWORK

A RIA system needs to be co-ordinated and carefully managed across the central ministries of government and other law-making institutions, as for example independent regulators. Locating responsibilities among regulators improves "ownership" and integration into decision-making, resisting individual ministries' interests or badly articulated co-ordination mechanisms.

A preliminary RIA document undertaken by the institution initiating the proposal accompanies proposed regulation or legislation. An extended network of policy makers spread around the public administration working on RIA, for their own policy purposes specialised in different issues depending on their field of work, will contribute substantial content to the analysis of possible impacts. Moreover, if co-ordinating efforts are not sought, these units of work will most probably be isolated from each other. Innovative trends in some OECD countries go in the direction of consolidating these networks by creating informal mechanisms to share experiences and good practices among RIA experts at a technical level. These informal mechanisms might be complemented by some kind of horizontal committee, with a more political profile, to encourage information exchange and support during the learning process.

In order to consolidate strong co-ordination, some OECD countries have established a central body with a leading role at a high political level, responsible for overseeing the RIA process and ensuring consistency, credibility and quality. This central body needs adequate authority and skills to perform this function. Experience suggests that the units are best located at the centre of government, such as the ministry of finance or the prime ministers' office, in order to indicate that regulatory quality is a high priority for the government and that reform is broad-based with the specific goal of improving the quality of citizens' lives.

A consistent methodology for RIA and its quality standards can be promoted with the provision of guidelines (see Section 6.1). Ensuring that the process follows certain steps in a systematic way and that the RIA document attains certain quality criteria is a key element to guarantee that policy objectives are better reached through RIA implementation. Increasing capacities inside the administration to conduct RIA is fundamental to make better use of this policy tool. The OECD experience shows that monitoring and oversight institutions offer quality control by providing basically three services to officials undertaking RIA: (i) consultation and technical assistance in drafting RIA; (ii) review of an individual RIA; and (iii) stocktaking of general

compliance with RIA by law makers. Accordingly, if the monitoring institutions are not independent of the agencies preparing RIA, the quality of RIA could be compromised.

Co-ordination of the RIA process is important to align and monitor efforts at various levels of government. The necessary authority should be given to the oversight bodies that assess the impacts of regulatory proposals. This process can generate tensions as institutions that previously enjoyed a free hand to make proposals find themselves constrained by the requirement for a RIA, enforced by another central institution. Tensions may be particularly acute if the institution in charge of co-ordination and quality control is provided with a new power of veto over proposals.

If RIA is to be used, it is important that it not be seen as a brake on the regulatory activities of line ministries or interpreted simply as an additional burdensome hurdle in the policy-making process. The introduction of a RIA system requires that responsibilities for regulatory development be carefully allocated and ministries engage with the new system. Entrenched vested interests obstructing RIA implementation should be carefully managed; and civil servants should be encouraged to think creatively to overcome obstacles they might find while producing the RIA document, such as lack of co-operation to collect data from other institutions, or reluctance to participate in consultation procedures, etc.

A significant number of OECD countries, like Australia, Canada, Finland, Korea, Mexico, New Zealand, Norway, the UK and the US, undertake RIA on a comprehensive basis, with a full economic analysis. Some studies point out that most of the regulation under impact scrutiny in developing countries is related more to economic issues than to social and environmental regulations.¹² In practice, RIA could be focused on the impacts on a few key subjects that are especially relevant for the country, *e.g.* UK focuses more on competition and small businesses impacts. In some cases, areas have been exempted from analysis, such as tax policies in some countries. It seems advisable to establish the importance of applying RIA to regulation not only on the basis of the subjects they deal with but also in relation to the potential impacts of the policy action and the effect of regulation.

RIA prioritisation in Australia, Canada and the United Kingdom

Australia requires Regulatory Impact Statements (RIS) for primary laws, subordinate regulations, international treaties and quasi-regulations that have an impact on business or competition. The impact on business and competition arises in the following cases: (i) govern the entry or exit into or out of market; (ii) control prices or production levels; (iii) restrict the quality, level or location of goods and services available; (iv) restrict advertising and promotional activities; (v) restrict price or type of input used in the production process; (vi) are likely to confer significant costs on business and may provide advantages to some firms over others. It is notable in the case of Australia that proposing ministries contact the Office of Regulation Review (Quality Control Body) early in the policy development process in order to decide whether RIS is required or not.

Canada has a particular scope of RIAs (Regulatory Impact Analysis Statement). Canada requires RIAs only in subordinate regulations. Memorandum to Cabinet (MC) similar to RIAs is required for primary laws and policies. It should be noted that adoption of primary laws typically involves consultation with stakeholders, discussion of policy proposals among government ministries with different mandates and discussion of the proposal by Cabinet and

public debate in Parliament during the legislative process. Canada does not require RIA for primary laws because all of these elements promote the development of high quality legislation.

The United Kingdom requires RIA in primary laws and subordinate regulations which have a non-negligible impact on business, charities, and the voluntary sector. It is notable in the case of the UK that regulations affecting only the public sector are currently subject to a Policy Effects Framework (PEF) assessment.

The information that RIA requires can be collected in numerous ways. An important procedure to integrate data for RIA takes place during the consultation process. There are, however, other sources for data collection (see Table 1). Data collection can be classified as direct or indirect. Information is direct when results arise from a specific survey designed and implemented as required to attain a precise objective. Information is indirect when it derives from data previously collected for other objectives.

In-house expertise of economists; lawyers and analysts	Define problem; analyse its extent through in-house knowledge and expertise, and existing studies and information.
Commission research and studies	Commission statistics from national research institutes; statistics organisations or consultants, <i>e.g.</i> cost-benefit analyses.
Dedicated RIA training	Training in quantitative techniques and analysis is imperative, so as to develop a public sector capacity to conduct RIAs.
Networking for RIA	Establish a central network to provide mutual support for those conducting RIAs and also where “best practice” from international experience can be shared.
International data and “best practice”	Availability of EU sources – EUROSTAT data, and EUROBAROMETER surveys; and evidence in previous EU reports, studies and green papers. Other international material available from OECD and World Bank.
Other methods	Techniques such as interviews; focus groups and questionnaires should be explored.

In nearly all countries, there are a number of existing instruments that may be used as pillars for the development of a RIA system. Some of the most common existing features which may be built upon to develop RIA systems are:

Legal “justification notes” attached to new laws that are sent to cabinet and parliament. They are normally prepared by the ministry of justice or legal bureaus in the executive branch, focusing on legal quality and constitutionality check of new regulation. These justification notes potentially could be broadened to become more comprehensive documents, such as explanatory memoranda looking at regulatory impacts beyond legal issues.

Budget and environmental impact assessments, already carried out by the ministries of finance and environment. Such impact assessments often have the same logic, although with a smaller scope, than RIA.

Consultation, participation and transparency

RIA can only be legitimate and efficient if it is integrated into public consultation procedures. The systematic integration of stakeholders' views enhances RIA quality by inviting comments from people that will be affected by the regulation. It also helps to improve compliance, as the ownership of the proposed regulation is shared with stakeholders. In order to be effective, consultation requires a number of preconditions.

The public, especially those affected by regulations, can often provide much of the data needed to complete the RIA. Consultation can furnish important information on the feasibility of proposals, on the alternatives considered, and on the degree to which affected parties are likely to comply with the proposed regulation. Furthermore, the assumptions and data used in RIA can also be improved if they are tested after the carrying out of the RIA through public disclosure and consultation.

Nevertheless, the risk that data collection through consultation could lead to "data capture" always remains. When stakeholders provide much of the needed data there is a high risk of biased RIA. This risk can be managed by diversifying data sources, and taking a checks and balances approach. Data biases can also be detected by being completely transparent. If data are weak, the quality of the RIA can be improved by an exhaustive external review. The more the process is open, the more it is likely to avoid bias

Prerequisites for a good consultation process

The Australian Productivity Commission has identified a number of preconditions for a good consultation process:

Consultation objectives need to be set. Clear objectives help identify the target audience, select the right consultation method to assist evaluation.

The stakeholders need to be clearly identified. In particular, the target audience may be broader than those directly impacted or those who have a known interest.

Other departments and agencies may need to be involved.

Methods of consultation need to be determined.

The nature and form of questions included in written consultation documents need to be considered.

Consultation risks need to be managed. Actions may need to be taken to mitigate risks such as low participation rates and poor presentation of complex issues that may be too difficult to understand.

Source: Productivity Commission (2004), *Regulation and its Review 2003-04*, Annual Report Series, Canberra.

CONCLUSION

The design and later implementation of a RIA system can only be successful if an institutional framework has been carefully designed and built over time. This presentation has addressed some of the most common questions that policy-makers should ask themselves before embarking on approaches implementing a RIA system, based on lessons learned from other countries experiences and some emerging and developing countries. The conclusion is that these experiences in applying RIA have generally produced positive results. However, while the benefits of integrating RIA in the policy decision-making process are evident, practical challenges are faced by all countries; and a consistent and well thought framework for RIA implementation can help to resolve those challenges.

Chapter 4

Administrative Convergence between Weberian Model and New Public Management

THE INTRODUCTION OF NEW PUBLIC MANAGEMENT PRINCIPLES IN THE ITALIAN PUBLIC SECTOR

Calogero MARINO
Faculty of Political Sciences, University of Palermo
Italy

Abstract

Over the last few decades, the Italian public administration has undergone significant reform, which aimed to rectify the structural defects in the system, leading to inefficiency in public management and an improper allocation and utilization of resources. The Italian legislator, following the New Public Management guidelines, introduced private principles and instruments in the public field to improve the efficiency, effectiveness and financial stability of state enterprise.

In particular, one of the main innovations introduced in this field regarded the recognition of the principle of distinction between politics and administration and the transfer from a bureaucratic model based on norms to a managerial model based on performance.

The reform has the aim of changing the traditional “weberian bureaucratic” approach of the Italian public administration, in accordance with the “New public management” principles.

This reform process regarded also other European Countries that have undergone profound changes. As well as Italy, the reform process in these Countries was based on the principles of "New Public Management" which proclaims: an increased focus on results in terms of efficiency, effectiveness and quality of service by setting standards of productivity; an orientation towards citizens-consumers in terms of service quality and customer satisfaction; the introduction of market mechanisms; a more strategic focus on the reinforcement of strategic capacity.

This paper is underpinned by analysis of the regulation introduced by the reform of the Italian public administration to observe whether its main objectives have been really achieved. It is also based on a comparative analysis of the effects produced by reforms in Italy and in other European Countries. Lastly this work aims to verify if it is possible to individuate a framework of convergence based on the principles of new public management.

INTRODUCTION

This paper deals with Italian public administration reform, carried out over the past decades on the basis of "new public management" principles. This innovation is geared towards the introduction into the public sector of private management instruments, with a view to improving efficiency, effectiveness and financial stability. These efforts aim to correct the structural deficiencies in the Italian system, which have generated inefficiency in public management and an improper allocation and use of resources.

In particular, these innovations have affected several aspects of the public administration system, changing governance rules, introducing deregulation and a new perspective on the citizen's roles and rights, implementing privatization and externalization, making provision for institutional decentralization, changing decisional processes and organizational models and reforming accounting systems.

These innovations also have the aim of prompting a shift from a bureaucratic model based on norms to a managerial model based on performance.

This reform process in public administrations also involved many other European Countries that have undergone profound changes; in these Countries the reform process was also based on the principles of "New Public Management". This does not mean that a complete uniformity of application has been found; on the contrary, in this regard, it is possible to highlight differences between one country and another.

This paper is based on an analysis of the reform process carried out in the Italian public sector to verify the results achieved. It also analyzes administrative evolution in European countries to see whether it is possible to single out a convergence, in the various European public administrations, towards certain common principles inspired by New Public Management ideas.

1. NEW PUBLIC MANAGEMENT AND MODERNIZATION OF PUBLIC ADMINISTRATION

The public administration, in the last twenty years, has undergone profound changes linked to the altered socio-economic context of modern post-industrial societies.

Previously public organizations had an organizational and managerial structure on the lines of a bureaucratic model and did not possess the necessary capacity to deal with the new needs of the citizens.

The rising complexity, the lack of financial resources and European politico-economic integration required a process of modernization in public administration.

This process has affected: a) the managerial perspective, taking public systems in the direction of new principles and instruments to be used in the process of organizational, managerial and information system innovation; b) the political perspective, leading the public sector towards new forms of legitimization; c) the juridical perspective, prompting the public sector to acknowledge the social-economic changes in society.

The above-mentioned reform process was especially based on the principles of "New Public Management".

1.1 New Public Management principles

The arrival of New Public Management has represented, over the last twenty years, one of the most significant events for the study and practice of public administration in most industrialised countries. This could be seen as an epochal evolution in the way the public sector is conceived, although doubts still exist regarding the components, the central characteristics and the definition itself.

In fact, the initials NPM represent a "wide-scale formula", to which various meanings are attributed. These range from the general idea of "modernisation of the public sector" to the narrower meaning of rationalisation of the public administration. The NPM makes claims to being universal; in fact, initiatives of the NPM type are common enough throughout the OCSE countries and have reached most Commonwealth countries, not to mention the ex-communist countries (Borins 1998, Hood, 1991, 1995a, pp. 166-170). This does not mean that a complete uniformity of application has been found. On the contrary, in this regard it is possible to highlight differences between one country and another, since the profiles for modernisation range from complete openness towards market forces and privatisation (Great Britain), to a radical re-planning of the public sector in line with the model of the private sector (New Zealand); from cases of rapid advance towards managerial running, to cases of co-existence with residual links with more traditional forms of bureaucratic government in accordance with pre-defined rules (Japan, Germany, Austria) (Naschold, 1996, 19). A greater impact of NPM-type ideas has also been noted in Anglo-Saxon contexts (though with internal differences) when compared to eastern regions of continental Europe (Ferlie et al. 1996, pp. 15-20). This could quite reasonably be due to the long tradition based on the predominance, in most European countries, of a school of thought of a juridical nature with regard to the public administration.

NPM should not be understood as a continual, uniform push towards a common public sector model; if anything it might be seen as a global change permitting differentiated local solutions, i.e. a widespread shift, as regards convergence, towards a limited variety of new and more uniform ways of government by the public administration.

In other words, the "global" movement is rendered compatible with a certain number of differentiated models, which, in their individual cases, reflect the way in which the following variables combine and interact:

- specific components introduced within each model and the order of priorities assigned to them;
- the speed of the reform movement (which depends on the vitality and degree of convergence of the guiding forces);
- the internal and external conditions determining the context in which the process of modernisation has to develop;
- the approach taken in order to complete each model.

In spite of the above-mentioned observations, which aim to mitigate assumptions about the universality or globalisation of NPM, it is, at the same time, possible to try to extrapolate a table for general reference.

The basic features of the NPM ideas might be synthesized into three fundamental elements (Osborne e Gaebler, 1993, p. 277):

1. Re-definition of the boundaries between State and market through privatisation and externalisation.
2. Re-formulation of the macro-structure of the public sector through the delegating of state functions (at the lower organisational level) to within the macro-structure (this phenomenon could be denominated institutional decentralisation or external decentralisation).
3. Re-definition of operational rules characterising the way in which the public sector carries out its functions and achieves its goals. This third component might be considered as characterised by seven main sub-components:
 - 3.1. Toning down of the ties conditioning the public sector as compared to the private sector. This phenomenon includes the transformation of state economic bodies into limited companies and might, generally speaking, be called formal privatisation;
 - 3.2. Re-structuring of activities/businesses in the public administration, so that they are operating “on a commercial basis”, i.e. in a state of equilibrium between costs and revenue (corporatization);
 - 3.3. State competition (internal market);
 - 3.4. Devolution of functions and competences from the centre towards outermost units or the lowest organizational levels within every entity in the public sector (this phenomenon might be called internal decentralisation);
 - 3.5. Re-definition of the administrative machinery;
 - 3.6. Deregulation of the functioning of economic and social systems;
 - 3.7. Re-definition of citizens’ roles and rights.

2. THE MODERNIZATION PROCESS IN THE ITALIAN PUBLIC SECTOR

Modernization of the public sector in Italy started later and at a slower pace than in other countries (such as the United Kingdom, Australia and New Zealand) and has only started to speed up in the last decade.

In particular, it has impinged on several aspects of the public administration system, mainly by:

1. Changing the governance rules, through a redistribution of powers between the different levels of government; reforming the political system through the adoption of the majority system and, finally, considering the third sector as a relevant social actor.
2. Introducing deregulation and a new perspective on citizens’ roles and rights.

Deregulation initiatives have only been activated on a wide scale in the last few years. In terms of deregulation the idea is to carry out a swift thinning-out of existing legislation (notable for its size, detail and confusion). The process, which has only just been activated, is based principally on the following elements:

It aims to involve the various levels of government (State, Regions, local enterprise); Parliament must establish areas of activity, where the greatest priority needs to be given to deregulation;

Parliament retains its function of approving certain basic norms, which it is thought might be better decreed at the national level;

The remaining activity of deregulation (assuming it is necessary) and its implementation will be delegated to state administration, to independent supervising and regulating authorities, to the Regions and local bodies, in relation to their respective institutional competences;

A great number of proceedings, pertaining to a vast range of branches of activity, were instigated following the initiation of simplification and thinning-out procedures.

Particular emphasis is given to structural reform of administrative procedures, so that these are guaranteed to businesses, organisations or individual citizens:

- swiftness and certainty of reply in answer to requests for information or supply of services;
- greater responsibility on the part of public employees (to whom pecuniary sanctions might be applied, so that in the event of a delayed or unmotivated execution of a procedure the citizen might be compensated);
- transparency of administrative operations.

The juridical problems of deregulation are contiguous to measures in which issues of an essentially operational/managerial nature are made evident. Here we are referring, on the one hand, to the wholesale adoption of service-charters geared towards facilitating access to services and information and stimulating social control of public management and its performance. On the other hand, the reforms we are taking into consideration are openly aiming to boost the citizen's participation in the defining processes of these charters and in monitoring the results. Again, so that these arrangements might be effective, it is necessary to introduce well-devised operative mechanisms and adopt managerial tools aiming to foster quality of service, involvement of the client and achievement of results. A primary initiative in the reformulation of regulations relating to administrative procedures, in terms of better information, opportunity for access to services and transparency, was carried forward through law no.241/1990.

Implementing privatization and externalization

The privatisation process started at the beginning of the 1990s, with the formal privatisation of the Casse di Risparmio and all other public banks (law no.218/1990).

The privatisation process proceeded slowly, in spite of the critical importance for the nation of its two major goals, i.e.:

- contributing to the development of the financial system and the Stock Market;
- contributing to the re-balancing of public financing, whose deficit was already a very serious problem in the early 1990s. Naturally, the process was (and continues to be) accompanied by a heated debate over the "classic" questions of more convenient ways of launching the said privatisation (Anselmi, 1994; Berti, 1998; Bianchi, 1994; Clarich, 1994):
- the options between a model on the lines of the public company (British experience) and the *noyau dur* (French experience);
- recourse to the golden-share model with the objective of the State's maintaining special rights of control of privatised public services;
- the decision to institute supervising and regulating authorities for public services.

The law regarding privatisation (no. 474/1994) chose to favour the public company model (although in several important instances the alternative *noyau dur* was applied). The golden-

share solution was eventually adopted and was followed by the decision to institute independent supervising and regulating authorities for public services.

As regards externalisation, it should be noted that, in contrast to privatisation, this came about, and continues to be verified, without any explicit legislative reform. To be more exact, it is a progressively growing consequence of the oppressive limitations deriving from the State deficit. Above all, this is affecting local bodies (including local health units – *aziende sanitarie locali*) as is indirectly demonstrated by the gradual reduction in expenditure on personnel as compared to that on purchasing goods and services. This evolution is, moreover, partly and more specifically caused by the recurring restrictions on taking on personnel imposed on local authorities by decisions at the intermediate level.

Making provision for institutional decentralization and a substantial delegating of functions from the Central State to the Regions

Decree no. 59/1997 and constitutional reform in 2001 introduced a sort of “administrative federalism”, in other words, the most wide-ranging delegating by the State, of functions, to the Regions and local administration. The principle of subsidization was affirmed as a basic criterion regulating relations between the various levels of government.

Only a very limited number of functions were to remain under the direction of State administration. In their turn, Regional administrations were forced to delegate to local bodies all those functions that might be better exercised at the local level, in line with the same principle of subsidization. This fundamental decision was supported by the ordaining of a certain number of operational criteria as guide-lines for the delegation of functions (globality, efficiency, economizing). Together with substantial privatisation and externalisation, institutional decentralisation aims to guide public administration towards the idea of a “light-weight” state.

Reforming accounting systems, ranging from legitimacy preventive controls to controls based on the evaluation of management performance.

The 1990s witnessed important changes in the structure of public sector accounting. The fundamental stages were:

- reform of the health system, approved in 1992, entailing the adoption of economic accountancy on the part of local health units (*aziende sanitarie locali*) and the abandoning of financial accountancy (Marcon e Panozzo, 1998);

- wide-ranging reform of the local authorities carried forward in successive phases starting in the early 1990s, led to important changes in the accounting system of local bodies, including the introduction of a performance budget (denominated executive management plan) based around certain objectives, programmes and resources (Marcon, 1996, 1997). Another aspect was the adopting of “economic” (= economic/patrimonial or general) accountancy, side-by-side with, and backed up by traditional financial accountancy;

- reform of State Accounting System (1997). Among other things, this deals with re-planning the budget structure in accordance with the organizational structure, which is organised in such a way as to open the way towards a budget crafted for centres of responsibility. Another cardinal aspect is the differentiation between content and

structure in the balance, in agreement with the informational needs of the principal actors (Parliament, on the one hand, ministers and managers on the other), analogically with the balances of local bodies. The framework is completed by the introduction of instruments of managerial control (as a system of analytic accountancy on the part of the cost-centres) and a link between resources/results and the management's budget goals.

Taken as a whole, the above-mentioned series of accounting reforms reflects the strategic change that is characterising the public sector's decision-making processes. In fact, the acceptance of a new relationship between politics and administration and the principle of managing for results, requires a transformation in accounting information. In the previous set-up the decision-making processes were of a centralised type and controls were of a legal-formal type, whereas the basic function of the budget was one of authorisation. On the contrary, the new set-up is characterised by decentralised responsibility, wide-ranging delegation of authority to management and the adoption of efficiency-effectiveness checks.

On the other hand, as regards control-system initiatives the synthesis of the most significant initiatives of an NPM type taking place in Italy over the last twenty years has greatly emphasised the emergence of new instruments and mechanisms of government (among the various aspects). First of all, the entire Italian public administration was hit by a change in the philosophy and functions of checking. Under these labels the elements can be grouped as follows:

- Shift from preventive checks of legitimacy to subsequent checks of results.
- The adoption of the principle, on the basis of which, results of the assessment process should influence the allocation of public resources, in accordance with a system of prizes and sanctions based on merit.

Consequently, a change in checking objectives was introduced, as well as a change in the actual nature of the checking instruments utilised. The shift from traditional monitoring of expenditure to monitoring of costs, output and outcome, belongs within this category, as do adopting a system of assessing performance and adopting periodic reports on efficiency, effectiveness and economizing.

Changing decisional processes and organizational models, through the introduction of those operating mechanisms needed to bring about more performance-oriented management in public administration (Bianchi, 2004)

The main innovation introduced in this field regarded the transfer from a bureaucratic model based on norms to a managerial model based on performance, the privatization of the employee relationship in the public sector, and, lastly, the recognition of the principle of distinguishing between politics and administration.

In particular, the reform introduces measures that are designed to provide greater autonomy to the executive body rather than the political authorities (Cassese, 2003). At the same time, it accords politicians the power to carry out timely and regular evaluations regarding the efficiency, efficacy and financial stability of management action. Lastly, it would like managers to be involved in proposing strategic objectives.

The reform, therefore, has the aim of creating a system which combines the principles of function separation and strategic interaction.

The new relationship between politics and administration necessitated providing politicians with orientation skills and public executives with managerial skills in order to avoid political interference and to fully achieve managerial accountability in the sphere of management (Marcon, 1996, 1997; Mussari, 1994).

In fact, one of the main goals of the reform was to give public managers the same powers as private company managers. Consequently, it was necessary to ensure that the management group had greater managerial autonomy from the political bodies, bearing in mind that before the reform politicians had the power to influence managerial action considerably. This often occurred because power was officially sanctioned to the political authorities so that they had the authority to substitute managers during the execution of their managerial functions.

With regard to this, the new regulation has eliminated this power and aimed to recognize greater managerial autonomy.

This is the principal element which distinguishes the old conception of public administration from the new. In fact, the previous decision-making process was plainly managed by politicians, while executives could not be rendered accountable for their activities. The new model, on the other hand, envisages public executives with greater managerial autonomy, and at the same it implies that managers have full responsibility for results achieved in the execution of their duties.

The innovation was first implemented through legislative decree no. 29 /93, which stipulated a clear distribution of skills between politicians (orientation competences) and executives (management competences) and modified the hierarchical relationship between them through the elimination of powers which allowed politicians to influence managerial activity. The objectives of the reform were finally implemented by the legislative decree 80/98, which extended the innovations to all managerial positions, and by the legislative decree 165/01, which coordinated and regulated all provisions concerning public employees.

The reform, therefore, introduced the principle of functional separation to regulate the relationship between politicians and public managers.

3. THE STATE OF THE REFORM IN ITALY

Everything described in the previous paragraph justifies our affirmation that during the last twenty years the Italian path to modernisation of the public sector has been taking advantage of the entire “system of instruments” of an NPM type. The various elements making up the whole NPM structure have entered the Italian context in a more or less wholesale fashion and at several levels. Certain aspects regarding the motivations, temporal development, range and impact of the various initiatives have already been dealt with, but ulterior consideration do now seem appropriate.

Firstly, privatisation entered the picture at a later date and more gradually when compared to other components; in fact, it is seen as a controversial issue, since it gives rise to political conflict in both left and right-wing parties, because of internal philosophies favouring the type

of public sector with a significant position in the economy; this is without counting political movements inspired by Catholic solidarity, and which strongly support State intervention. The need to streamline the public sector is widespread, because of enormous state expenditure and public debt (Messori, Padoan e Rossi, 1998, p. 118).

Secondly, a toned-down version of corporatization was introduced (Borgonovi, 2005). In most cases the costs incurred by those utilising the services do not reflect the principle of total cost, as postulated by the expression “management on a commercial basis”, which defines the concept of corporatization in rigorous fashion. This means that most “corporatized” public bodies continue to be widely financed by taxpayers and this also continues to hold true, though in decreasing mode, in sub-sectors (such as health units and local bodies) where the process of corporatization has advanced on a wider scale.

Thirdly, competition is still in its initial stages and only makes its presence felt in particular cases, such as certain partly-privatised public services and health organisations (following the introduction of the principle of patient mobility compensation).

Fourthly, a fresh surge of institutional decentralisation is now breaking ground under the previously-mentioned label of “administrative federalism”; but there are still great expectations of further development, witnessed by the on-going debate regarding fiscal federalism and federalism plain and simple. In fact, it is constitutional reforms that occupy end-of-century prime time in political debate. It is difficult to foresee the final outcome and implementation times, since these reform schedules group together not only the theme of institutional decentralisation, but also particularly complex questions, such as: overhaul of the electoral system in a more decidedly majority-based direction; overhaul of form of government (adoption of a presidential system is one of the fundamental options); modification of norms governing judiciary power and the functioning of justice.

The same considerations with regard to privatisation and institutional decentralisation are applied to initiatives such as: deregulation, re-definition of the role of citizens’ rights and accountancy reform at the State level. In all these cases: a) the reform process has only recently been begun; b) the impact is therefore still limited; c) there is strong pressure for further development.

Fifthly, the reform did not completely accomplish the principle of functional separation between politicians and public managers.

This principle was formally adopted in Italian legislative reform (art. 4 decree no. 165/01, expressly entrusts public managers with all managerial competences; art. 14 prohibits politicians from interfering in a manager’s activities), but the new regulation also contains rather vague aspects, which might contribute to preventing the actual application of the above-described principle (Marino, 2009). In particular, it introduces a complex series of instruments that could provide political authorities with the power to influence an executive’s actions, these are:

- Regulation of the managerial role; the first influencing element is represented by the power of nomination of top managers and general managers, a power which the law (art. 19 par. 3,4,) grants to political authorities. These powers can directly affect the managers in their activities, considering that the politicians can, at their

discretion, assign and confirm managerial posts. In this hypothesis managers could be influenced in their managerial choices by politicians who have the power to confer the role on them. The regulation provides a further influencing aspect, which is represented by the term of duration of the appointment (art. 19 par. 2). The limited duration of the position might prevent managers from remaining impartial from political bodies. In fact, managers with a short-term appointment might be subject to severe pressure from politicians having the power to re-confirm their appointment.

- Career progression of professional executives; the normative (art. 23, par. 1, leg. decree 165/01) states that only managers who have held a general managerial position or equivalent duties for at least three years, may be incorporated on the higher managerial level. When management is organized on two levels (as in the case of the Ministries) it may exercise a political influence, because the choices made by the political bodies might affect an executive's career development. A position conferred by politicians (who have the power to confer top manager and general manager positions) might have direct consequences on the manager's career progression (Merloni, 2006).
- The spoils system; the spoils system is a mechanism that allows politicians who have won elections to choose which persons to assign to top managerial posts (e.g. General Secretary or Head of Ministry Department). More specifically, the normative (art. 19 par. 8 leg. Decree 165/01) states that the top management appointments (general secretary and head of department) will terminate 90 days after the new government has taken office, without any need for justification because of the new government. When managers are linked to politicians in this way, it is very unlikely that administrative action will respect the principle of impartiality (art. 97).
- The improper use of external management; the vague formulation of art. 19, par. 6, has allowed politicians to widely use this opportunity to boost the number of fiduciary positions. External management represents an instrument for introducing the spoils system in the public sector, and it has permitted executives to join the upper managerial level as a result of their personal affiliation to political bodies.
- Organization restructuring; the legislative decree 300/99 assigns the adopting of organization restructuring to public sources, such as government regulations and ministerial decrees. This possibility is often exploited by political authorities to operate the systematic removal of managers, the phenomenon being called a "disguised" spoils system (Merloni, 2007).

The new regulation introduced by the reform, therefore, has not fully accomplished its aim, because it has provided instruments that may be used in the public administration to reduce managerial autonomy and to allow politicians to gain influencing powers over a manager's activities.

Lastly, a few initiatives are distinguished by more significant advances. These include: formal privatisation, re-definition of the administrative machinery and internal decentralisation. In fact, almost all public economic bodies have been transformed into limited companies. The intervention in the administrative machinery is distinguished by the wholesale adoption of the principle of budget delegation: from the political organisational level to the managerial level (and further down the scale the organisational level as far as local public bodies). Moreover,

the internal decentralisation issue is distinguished by the wholesale adoption of operational mechanisms for planning and checking; these aim to ensure that managerial operations connected with acquisition and employment of resources are carried out in the light of the principle of economic rationality (pursuit of efficiency and effectiveness).

This is certainly a profound change, probably destined not to find its equal in other countries in the NPM movement, and above all, in countries of western-central Europe.

4. ADMINISTRATIVE EVOLUTION IN EUROPEAN COUNTRIES

The United Kingdom is seen as the progenitor of New Public Management in Europe. During the eighties Margaret Thatcher shifted power from the intermediate centres of power, which had been created by the political powers and the administrative body as a whole (unions, local bodies, professional groups), moving the responsibility for state-reform towards the centre. The white-collar unions were sized down considerably and top managers with permanent contracts were placed in charge of administrative agencies (Rhodes, 1997). The previously-nationalised industries and public services were nearly all privatised. Even more emphasis was placed on the characteristics of pragmatism and managerial ability, which were however already present in Britain's administrative organisation. With the change of government from Conservative to New Labour in 1997, the role of market rules in the public services went from offering discipline and guaranteeing the monetisation of the effects of competition, to being the source of innovation and renewal in the public services. Public contracts and public procedures of supplying money were inspired more by collaborative methods than strictly competitive ones.

In many respects Scandinavian countries can be treated as a whole, with Holland often being grouped together with them (Torres, 2004 e Preforms, 1998). Scandinavia and Holland are linked by the fact that their administrations place great care on the needs of their citizens and there is a continuing tradition of consultation and negotiation between public and private authorities (Torres, 2004, p. 101). The direction of administrative reform in these Nordic countries is one of radical political decentralisation and administration, in the context of a public sector that remains pervasive and a state that is committed to providing welfare (which has only been sized down to a slight extent). However, Scandinavian public administration remains strongly legalistic (Jorgensen, 1996). Sweden has several public agencies, whose independence is guaranteed by the Constitution. The ministries do not have direct responsibility in the agencies' decisions and therefore they cannot oppose their decisions. Checks are carried out by administrative jurisdiction and the ombudsman. In Denmark and Norway, on the contrary, public agencies are subject to direct ministerial control. Norway and Sweden differ from Denmark in that they have politically nominated secretaries of state and elections every four years. In Denmark, the prime minister can decide when to call general political elections. These differences bring about different relationships between politicians and civil servants. In Norway and Denmark, during the 1980s, a system of management was introduced based on the definition of goals and verification of results (Christensen e Laegreid, 1998). All the Nordic countries adopted excellent initiatives for verifying administrative performance. Among Scandinavian countries Denmark is often seen to be in the vanguard of decentralisation (Preforms, 1998). Compared with Sweden, Denmark has a more pragmatic and liberal style, whereas Sweden has a long tradition of official policy analysis and diagnosis of administrative problems, with strong ties between academia and actual practice. In the Netherlands, institutional tradition has always aimed to involve civil society in the supply of

services and local-level decision-making (Kickert, 1995). Norway and Finland lag behind Denmark, Sweden and the Netherlands, but the reform dynamics are similar.

In the German-speaking world (Austria, Germany and Switzerland), the administrative model is still the classic Weberian one (Torres, 2004). The public sector has a distinct profile that clearly places it outside the social and economic sphere. Administrative practice is linked to the Rechtsstaat doctrine and is strongly legalistic. Relationships between offices function through detailed directives, organised in line with a strict hierarchy. The public employer-employee relationship is characterised by permanent contracts, job security and non-transferability of post of work. The parties recruit their managerial class from the actual ranks of public administration (Torres, 2004, p. 101).

New Public Management philosophy, based on contractualisation and managerialisation runs into institutional, cognitive and normative obstacles in the German administrative tradition.

An overall reform-bill is further complicated by the federal structure of these countries, where each region holds the reins of its own administrative policies and there is a strong tradition of local autonomy (Wollmann, 2001, p. 167). In Germany and Austria there has not yet been an extensive application of the instruments for checking accrual-accounting balances and performance indicators. The introduction of contractual instruments of common law as a normal method for managing public activity is still in the embryonic state.

In Switzerland the status of civil servant is open and the interchange with the private sector is quite good (Schedler, 1997). However the salary levels and the rigid salary scheme make it difficult to attract certain specific types of worker (e.g. programmers and financial managers). At intermediate or regional levels of public administration, the influence of consultants from the private sector has been decisive in the introduction of typical New Public Management solutions.

The countries of southern Europe are influenced by the French administrative model, founded on the centrality of administrative law and the supply of services at the same level throughout the country, through the workings of the central apparatus of the state. The management of public finances is still mainly centralised, in spite of a recent tendency towards federalism or fiscal regionalism (Torres, 2004, p. 104).

In France the public sector has been affected by competition. Market principles and the individual assessment of performance are difficult to impose in a context of heavily unionised public employment (Guyomarch, 1999, pp. 177, 185). Spain represents a particularly interesting example for other reasons. Until 1975 the country was governed by an authoritarian regime, which, on the contrary to the rest of Europe, greatly limited the spread of the welfare state and administrative structures. With the fall of Francoism the democratic regime tried to close the gap, and between 1975 and 1995, public sector expenditure went from 24.4% to 45.5% of GNP. Therefore Spain found itself combating a rapidly expanding public sector, whilst throughout Europe New Public Management called for a containing or reduction of public spending. In more recent times, the Spanish government has introduced many of the New Public Management instruments, but with no great results (Torres e Pina 2004, 446). Wide-scale administrative decentralisation and greatly reinforced unions have, without doubt, made the road to change more complicated. Adopting occasional measures, without the introduction of a complete reform packet, has been another cause of the reformers' significant failure. In Spain too, privatisation has not been accompanied by

incentives to be competitive. Managerialisation has advanced slowly, and responsibility for actual management has not been clearly defined. The public finance system is still centred exclusively on correctness and formal ties in management, rather than on checking the results. Administrative management is strictly separated and it is difficult to establish retribution systems based on individual performance, just as it is difficult to attribute responsibility functions to external personnel recruited *ad hoc* (Torres, Pina, 2004, pp. 453-456).

To conclude this brief summary it should be noted that the rush for reform that has involved the public administration set-up throughout Europe is multiform. So far the road to reform has been laid down by the intervention philosophies of New Public Management. The reforms carried out in Nordic countries and Holland might represent an alternative to the model for modernising the public sector based exclusively on the actual character of the market, accessible above all to German-influenced countries and the Mediterranean area, where a certain bureaucratic spirit has been maintained in the recruitment and training of civil servants. In these countries the functionaries are, and will remain, professionals in law and are by nature reluctant to take decisions. In Nordic Europe and the Netherlands the predominance of jurists was greatly reduced in the second half of the 20th century.

Southern European countries introduced various measures aimed at raising the quality of public services. For this reason they have based themselves on directives of the European Foundation for Quality Management (Efqm), which lays down goals regarding leadership, attention towards employees and citizens, collaboration with other bodies and institutions, development of performance indicators and checking of results.

As regards the other elements in New Public Management, more closely linked to competition (such as the providing of public services based on competitive bargaining and emphasis on the private managerialistic style), the three great continental-European models (Nordic-Scandinavian, Germanic, southern European) need to question the role of the public sector in society, and therefore strong resistance or refusal will presumably be encountered. Only Sweden, and to a certain extent Finland and Holland, seem to have embarked on concrete initiatives in this sense.

5. DIRECTIONS OF CONVERGENCE

In spite of the different ways in which NPM principles have been received in various European countries it should be noted that, from analysis of the administrative reforms carried out over the last few years it is possible to single out convergence in the various European public administrations towards certain common principles inspired by NPM ideas. By convergence we mean specifically the introduction of guide-lines laid down by NPM into the public administration of various nations.

International convergence of public administrations is also favoured by the increasing importance of the international arena, and therefore by the diminished capacity of governments to isolate themselves economically and politically from global pressures. These pressures manifest themselves through international markets and organisations such as the European Union. Convergence and internationalisation of national public sectors develop in certain principal directions inspired by the actual principles of NPM (Peters, Pierre, 1998).

1. Thinking up new instruments for checking and allocating responsibility: changes the role of elected representatives, something which is usually downsized. Political leadership is less strongly-linked to an elective public office and begins to be more dependent on political entrepreneurship. Political leaders take on key responsibility in developing networks and “consortiums” of public and private resources. The only role of a traditional type left to politics is that of establishing goals and priorities.
2. Streamlining of the separation between public and private.
It is necessary to close the gap that has been created between the state and the rest of society. Anybody operating on the market, under strong pressure, has developed sophisticated models of management and allocation of resources. Public bureaucracies have long remained cut off from any type of pressure. This has resulted in disorganisation and neglect, inefficiency, obsession with procedure, indifference towards the needs of the consumer. New Public Management theories maintain that efficient management techniques are the same in every sector, and should not therefore be differentiated in accordance with the public or private nature of the organisation (Peters, 1996).
3. Greater emphasis on competition.
The idea of exploiting competition to create greater efficiency and more attention to the client in the public sector is a clear demonstration of the penetration of the principles of company-oriented derivation. The introduction of competition has had important consequences: it requires a loosening of political control over functioning of services and the attribution of wide-ranging decisional discretion at all levels of the organization. Thanks to the creation of an internal market for all services, the competition consents each organizational unit to evaluate its costs in a much more accurate way.
4. Greater emphasis on checking results.
The checking of results was introduced through the use of indicators such as customer-satisfaction, or introducing private actors or volunteers in the production and supply of public services, in order to boost adherence to the rules of good administration and adaptation to citizens’ demands.
5. Creation of new management tools and techniques.

According to the theories of New Public Management managing by pointing in a certain direction is the key task for the public sector (Rhodes, 1997, p. 49). This entails establishing priorities and setting goals.

The lowest common denominator of these intervention policies is a state that, if not yet minimal, is certainly more streamlined, less costly and potentially more efficient than the Weberian state. The intervention policies can be translated into specific reform measures in three categories: 1) “market-based”, 2) “participative”, 3) “deregulation-based”.

Market reforms include (Merusi, 2002): introduction of the agency model, which attempts to keep administration away from political decisions; payments linked to merit for public employees; the creation of an internal quasi-market, separating suppliers from purchasers in the public sector; bargaining based on achieving goals, especially in recruiting other managers; adoption of accrual accounting instead of cash-based accounting, emphasising the importance of disposable capital and costs of future outlay; revision of every administrative programme on the basis of cost-benefit analysis; creation of “single desks” in all cases where it is possible to eliminate duplication of competences.

Deregulation is based on the assumption that many of the rules laid down within public bodies for managing personnel and the budget are useless and should be eliminated. There are various similarities with market reform, but the central element in this case is different. Deregulation can predict: a change in the rules of financial management, so as to consent agencies to decide in greater autonomy; the attribution of greater autonomy to single administrative units with regard to supply agreements and contracts; the elimination of rigid controls over employment, promotion and dismissal of public employees (Peters, 1997).

Reforms of a participative nature aim to improve the quality of services by involving workers from the sector and consumers (often called “clients”) in decision-making.

Participation reforms include: citizens’ procedural rights in dealings with institutions; quality management; decentralisation, which devolves responsibility for projects to outside bodies; citizens’ charters or service charters, which stipulate the minimum quality levels to be expected from the services provided. We shall now analyse several of these reforms of a participative nature in more detail, and with the aid of examples.

5.1. The ombudsman and the defence of good administration

Among the tools for fostering quality in administrative activity, the ombudsman stands out in the latter part of the last century as the institution with the greatest capacity for international diffusion (Mortati, 1974). Today there is an ombudsman or an analogous authority at the national level in more than 100 countries throughout the world, without counting the ombudsman instituted at the local level. The institution of the ombudsman, better known in Italy under the title “difensore civico” (lit. civic defender), originated in Sweden in 1809, and after more than a year’s incubating period started to spread throughout Scandinavia and subsequently the rest of the world. The basic characteristics of the ombudsman are today those of a “complaints office” for the citizen dissatisfied with his treatment by the public administration. Through informal powers and the moral persuasion that it possesses (recommendations to public administration, official relations with Parliament, faculty of proposing reforms) the ombudsman can often resolve controversies through negotiation between administration and private parties (Cominelli, 2005), and can put itself forward as an institution to reform other institutions. The limited costs and reduced operational times have turned the ombudsman into a practical alternative to administrative jurisdiction (Leino 2004, p. 364).

Although the ombudsman exists at Regional and local levels, only Italy and Germany of the 25 members of the European Union do not have an ombudsman at the national level. In 1995 the European Union nominated the first EU ombudsman (named “Mediatore europeo”, i.e. European mediator, in the Italian versions of the treaties), which could officially deal with complaints made by EU citizens about EU institutions. In the first ten years of activity the EU ombudsman has seen the number of complaints quadruple and has had many decisions overturned, as well as administrative practices that do not fully respond to the canons of good administration. The institution of the ombudsman has had considerable success in State organisations and its reach is today also spreading to International organisations. It is a flexible tool and a permanent source of administrative reform proposals. The EU ombudsman has managed to put so much pressure on the Charter of Nice and the Constitution that the right to good administration has been incorporated, and various institutions have been compelled to take into consideration the possibility of a binding “good administration code” for their employees. The best road for the ombudsman to take consists in keeping an eye over

quality in administration, not from a legalistic point of view, but fostering a culture of service in the administrative sector (Tomkins, 2000). While this might not present a problem for the Nordic administrative culture, difficulties arise with the German, French and southern European administrative models. The ombudsman adapts to whichever institutional and cultural context it might find itself in, and modulates its operations by following the Pole star of change and good administration. Specifications as to what constitutes “good administration” crop up ever more frequently in national regulations and paradoxically stem from a compilation of cases of poor administration.

5.2. Service charters for the citizen

Citizen’s Charters are an experiment arising out of a UK government initiative launched in 1991 with the aim of implementing a ten-year programme to improve public services. The Citizen’s Charter proposed to set standards of quality in the providing of services, to assess the validity of performance and in the final analysis, to encourage improvements in quality through pressure applied by public opinion. The standards laid down in the Charter were of either a quantitative type (e.g. maximum waiting time) or qualitative type (e.g. respect for an individual’s privacy and dignity), and in cases of infringement compensation was envisaged. In subsequent years other countries followed the example of the Citizen’s Charter: among these there were France, Belgium, Portugal, Italy and Spain (Torres, Pina, 2004). The Italian initiative was launched in 1993 and the major difference from the UK model was that there was still no provision for a standard (as regards services) applicable at the national level, the faculty to fix its own minimum standards being left in the hands of the individual bodies.

Apart from this, very few Italians knew about the Service Charters, at least initially, because they were poorly advertised, and so adoption of the Charters was delayed by many months or even years. A survey carried out in 1998 by the Electricity and Gas Authority revealed that knowledge of the Charters on the part of the citizen varied from sector to sector, and even in the most virtuous sectors the figure never rose above 10%. In electrical services the quality standards had been set directly by the operators, with very ambitious goals. Compensation in the event of disservice was only awarded on request, and seeing the lack of information regarding standards, in the vast majority of cases compensation was never even claimed.

Little attention has been devoted to the launching phases and evaluation of the results of the Service Charters. In the United Kingdom, implementation of the project was entrusted to a permanently operational task force endowed with excellent resources. The committee responsible for supervising the Service Charters in Italy did not have a permanent staff and was made up of three part-time experts. However, the most significant element of differentiation when compared to other experiences was that in applying the standards of quality practically in Italy these were confused with a formalised right to a certain level of performance. On the other hand it was observed that the best way of rendering the Charters more effective was, rather than create binding obligations for the service-supplying body, to create moral obligations of responsibility and accessibility in dealings with citizens. One of the advantages of the Service Charters in the United Kingdom was to succeed in improving quality without it being necessary to initiate great legislative reforms. The legislative provisions that set down new laws risk constituting an obstacle to development of the most flexible and responsive public services. In the United Kingdom, the results of the assessment did not only serve to impose sanctions, but also, and principally, to create higher expectations.

The differences in the link between “rights” and “action” are often related to the cultural context.

In the common law profile, the service Charter represents a verifiable tool inspired by New Public Management. Goals to be reached, rather than juridical aspects, are indicated; these objectives are laid down from above in order to maximise public attention of consumers and managers.

In the public law profile, the service Charter tends to confuse standards of quality with rights, and ends up creating additional guarantees, which often actually turn out to be rather ineffective in the administrative system (Lo Schiavo, 2002, p. 695).

CONCLUSION

In the light of all the above we might conclude that the principles of NPM have had a great influence on the processes of reform and modernisation in the Italian public administration. In particular, from a comparative analysis with other European countries it emerges that Italy is one of the countries that has been most stimulated by the NPM guidelines. However, it should be stressed that the NPM principles have influenced reform movements in most of the world.

This does not mean that a complete uniformity of application has been found. In fact, to this end it is possible to highlight differences between one country and another.

In particular, every administrative tradition has reacted differently in accepting or refusing the various types of reform. Changes in the public sector certainly depend on differing cultural variables that impinge on the circulation of ideas and policies.

For example, a greater impact of NPM-type ideas was also discerned in Anglo-Saxon contexts when compared with eastern regions of continental Europe. This can be reasonably put down to a long tradition based on the predominance in most European countries of a juridical-type school of thought in public administration.

Anglo-American culture has shown itself to be particularly inclined towards market reform, whereas German culture has opposed it forcibly. On the other hand Scandinavian administrative tradition has proved to be receptive towards injections of managerial quality. Deregulation reform has been carried out more frequently in Australia and the USA than in Europe. The most common reforms have been those of a participative nature, followed by internal deregulation in public bodies.

Nevertheless, in the light of what has been documented here, it is also possible to identify (in spite of national differences) an administrative convergence of reform movements carried out in the various European states on the road to adopting several common principles, clearly inspired by the NPM, which have facilitated the birth and implementation of the process of modernisation of European public administrations.

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**THE ADMINISTRATIVE CONVERGENCE IN THE BALKAN AREA
EMPIRICAL ANALYSIS OF SOCIAL POLICY IN ROMANIA
AND BULGARIA**

Ani MATEI

National School of Political Studies and Public Administration, Bucharest
Romania

Tatiana-Camelia DOGARU

National School of Political Studies and Public Administration, Bucharest
Romania

Abstract

In a world of permanent change and movement with interconnected actions that create interdependences, the institutions and administrative systems should be flexible and transparent to adapt their selves to these changes and to create the necessary framework for developing in good conditions all the aspects of the social life.

In this paper, the attention is focused on the administrative convergence, considering that it is impossible to conceive a strong European construction without the existence of an effective public administration at both levels, national and European and therefore the research tries to emphasize few signs of convergence between Romanian and Bulgarian employment policy.

INTRODUCTION

The globalization and intense development of the social systems represent an important trend that embraced our world for the last twenty years. It is a world of permanent change and movement with interconnected actions that create interdependences. The international geopolitical movements, known to our present society, have a visible destabilizing impact upon the public sector, define a new role of the state and orientate the public administration towards client and service (Matei and Matei, 2000, p. 9).

The Europeanization, also interpreted as a globalization process in the European realm, represents a state which is contiguous to the European integration, encompassing among others its impact upon the national administrations (Matei, 2004, pp. 29-43).

In this context, the social dimension of globalization increases in importance. The opening degree of an economy may determine the fragility of labour market and volatility of balance policies and efficiency, as well if the respective countries have not institutionally and functionally adjusted to the new economic and social conditions.

Contemporary labour market "can be liken to a ship sailing on an ocean of employment problems. This ship is trying to walk despite the wave of social and economic challenges that seem to surround him from all directions. Public services have to face to some multiple stresses manifested between the efforts to obtain greater efficiency and fundamental ethical values. Public Employment Service is like a captain who feels isolated and needs to work with the others from government and outside who can help him to find the correct direction of the ship and the route which could be the most beneficial" (Thuy et al., 2001, pp. 167-168).

Therefore in the context of the internal market program, a general expectation was that increased EU integration would imply convergence on the national level. The convergence of governance systems would imply not only common and shared legal rules, but also increasingly similar institutional, organisational, procedural and behavioural arrangements (Rometsch and Wessels, 1996, Meny et al. 1996).

I. GENERAL CONSIDERATIONS

EU enlargement eastward brought up the capacity of the Balkan states to adapt their administrative structures to the standards and patterns promoted by the EU. These debates have as foundation the traditions, economic values, social, cultural, administrative of the states in the Balkans in relation to those promoted in Western countries and the EU. Appealing to cultural connotations, we emphasize that in 1918, in an article in the New York Times it is used the term Balkanization; it designates the process of fragmentation of some large state entities, as a consequence of historical events in Balkans.

Throughout the Cold War period, the geographers included the Balkan countries into two separate areas: Southern or Mediterranean Europe (Greece, Spain, Portugal, Italy) and Eastern Europe (Yugoslavia, Albania, Bulgaria, Romania, Poland, Hungary, Czech and Slovakia). After the Second World War, Eastern Europe was identified with communism and the domination of the Soviet Union. If we have a look at the evolution of the Communist in these countries, we can easily identify more differences: Bulgaria was the most loyal friend of

Moscow, Romania started its communist period faithfully to the Kremlin's leader and later manifested a certain independent attitude in the 60's (Jelavich, 2000, p. 302).

Comparative with Western European countries, Eastern European countries, and especially the Balkan ones, remain less urban and less industrialized than Western countries. The Romance and Germanic languages characterize Western Europe whereas in the East we can find Slavic languages. Catholicism, Protestantism and Judaism are present in this area, but so are Islam and Eastern Orthodox Christianity throughout Europe.

All this complex system influenced administrative systems in Bulgaria and Romania the reason for that we consider the existence of a certain level of administrative convergence, which has its roots in the Balkan model, and which is amplified through the process of Europeanization.

The European Union like others polities struggles with reconciling unity and diversity. The Europeanization affects national political and administrative systems, domestic politics and policies. Even if, it is appreciated that at the European level there is a space proper for unifying public policies, there are not applied the same, the diversity being determined by realities of European states, their cultures and traditions, different, unequal levels of economic development, own resources, instruments and mechanisms promoted within the national public policies and the legal and administrative systems of European member states are pressured by a permanent adaptation process in order to correspond requests regarding the transposition and application of European legislation (Matei, 2007, p. 4).

The European context has several characteristics that could promote administrative convergence and a European Administrative Space, but also a number of properties that could counteract this trend. Analyses of how national administrative systems and styles respond to EU integration and Europeanization processes are focusing on three possibilities regarding how Europeanization might affect the differences between national administrative systems (Knill, 2001, p. 49)

1. the possibility of administrative convergence; which is defined by the extend to which domestic styles and structures reveal similar characteristics because the influence of European policies.
2. the administrative divergence situation; this imply the fact that administrative differences across member states are increasing.
3. the possibility of persistence of administrative differences across member states.

In this paper the attention is focused upon administrative convergence, considering that it is impossible to conceive a strong European construction without the existence of an effective public administration at the both levels, national and European.

I.1. What is “convergence”?

The study of the convergence has to describe how the various factors and economic social and political mechanisms act or compete at mitigation of some differences between these entities. While there is a broad consensus on the definition of convergence as the tendency of societies to grow more alike, to develop similarities in structures, processes, and performances (Kerr, 1983, p. 3), the empirical and theoretical assessment of policy convergence is generally

hampered by the use of different, partially overlapping concepts. Convergence is discussed in terms of match between EU level principles and rules and national institutions, in terms of game playing or competitive selection (Knill and Lehmkuhl, 1998, Scharpf, 1996), and it could be looked at from different points of view.

At root, the meaning of convergence is that countries at a similar stage of economic growth appear to be convergent or as (Wilensky, 1975, p. xii) says “whatever their political economies, whatever their unique cultures and histories the affluent societies become more alike in both social structure and ideology”. According with Pollitt, “administrative convergence” is a term without a clear and agreed-upon meaning, but convergence on a common model implies a reduction of variance and disparities in administrative arrangements. Different administrations develop along the same path in a way that produces more homogeneity and coherence among formerly distinct administrations.

On the other hand, from a “Brussels” perspective, convergence is defined as the gradual process of constitutional, institutional, procedural, organizational and behavioural innovations and adaptations to EU decision in the integration process. Page and Wouters (1995) argue that the power in Brussels provide a transfer mechanism both for national administrative best practice, thus influencing by Europeanization, the national administrative policies.

In the intergovernmental perspective the convergence effects of EU decision and legislations at national level were linked to pre-acceptance by national decision-makers (Moravcsik, 1993, 1998). But, the convergence would imply not only common and shared legal rules, but also increasingly similar institutional, organisational, procedural and behavioural arrangements (Rometsch and Wessels 1996, Meny et al 1996). Wessels and Rometsch also, have argued that a “fusion” of national and EU administrations has taken place. The end of this process is the convergence that may be expressed by the common characteristics of the administrative models (Rometsch and Wessels in Matei, 2010, pp. 7-9).

National administrations are also the most important instruments of the governments for pursuing national strategies in relation to the EU. Wallace (2001) represents a more open empirical approach to the issue of convergence. Each country has a set of characteristics deriving from national political and judicial traditions, which imprint national adaptation and practices. To achieve convergence the trend is to incorporate the impact of European legislation and the principles of jurisprudence in family routine of internal policies.

It could say, that when core ideas, competence, resources and institutional arrangements match, or fit, the likelihood for convergence is high. When mismatch is strong, we can expect little or no convergence, or even divergence (Cowles et al., 2001).

Debates and discusses about the hypothesis of the convergence have made, also in the context of the Europeanization and comparative policy analysis, and the idea of convergence occupies a central place in comparative public administration studies and it is very close to the recent studies about policy transfer process. Many scholars have showed considerable interest in cross-national policy transfer. By the 1960s a key focus of policy studies is upon comparative policy analysis. A sub-field of this studies is the examination of the process called policy transfer. The increase in the number and role of international organizations and think tanks, combined with the globalization of information and knowledge have accelerated the

production of studies regarding issues of policy transfer; idea very close to the recent developed concept of convergence.

Generally speaking, two schools of thought on the extent and mechanisms of policy convergence can be distinguished. On the one hand, sociological institutionalist theory claims that organisations tend to become similar as they struggle to become more isomorphic with their operating environment (Meyer and Rowan, 1977). Historical institutional theory, on the other hand, stresses the resilience of national policies and institutions against outside pressures. These arrangements are deeply rooted in national history; in fact this is the sense of permanence that makes them legitimate in the eyes of national actors (March and Olsen, 1989). Policy convergence is equated with related notions, such as isomorphism, policy transfer or policy diffusion.

Other authors (Hall, Taylor, 1998, pp. 936-955) use the concepts of the neoinstitutionalism, making reference to the sociological approaches and rational choice theory. Their result could be convergence or divergence towards a *transposed national model*, obtained by means of adaptation and “*gradual socialization of the norms and practices inside the EU system*” (Harmsen, 1999, p. 84).

The most essential principles and values that are the basis of the administrative convergence can be generalized in the following way: 1) democracy and supremacy of law; 2) objectivity and neutrality; 3) awareness and transparency; 4) reliability; 5) independent and professional administrative services. From a consequentialist point of view, the member states are expected to converge towards a unique transposed model. Similar developments are expected for the organizations placed in the institutional environment and under a common pressure (Matei, 2010, pp. 9-12).

The researches show few signs of convergence between national administrative systems (Bulmer and Burch, 1998, Olsen, 2003).

I.2. What kind of convergence?

From the analysis of literature it can come off the existence of three specific types of convergence.

1. Real convergence applied in the fields of real economic development using indicators of level of development (performance in time) of economic entities studied (GDP or per person income). In this case the convergence highlights the tendency of approaching or even equalization of the level of development;
2. Nominal convergence applied in the monetary and financial field for observing the levels of economic stability through rates of inflation, budget deficit, public borrowing rate, exchange rate tendency;
3. Institutional and administrative convergence applied in the field of compatibility up to unify of the structures of the administrative - economic institutions from different countries to ensure an efficient operation of them and good communication between countries and regions in order to achieve common objectives.

From another perspective we see three other types - which we have called interactive convergence, autonomous convergence and deviant convergence (Andersen, 2004, pp. 203-224).

Interactive convergence, relies on mutually reinforcing interaction between EU level pressures and national level interests¹. *Autonomous convergence* is a quite common type of local re-contextualization. Adaptation and transformation in organizational and behavioural level takes place within a context of normative, cognitive and legal convergence. EU-level decisions and rules represent general and idealised description of problems. The demands for the member states' adaptation are often expressed as flexible standards and procedures or ambiguous outcomes. Sometimes demands are formulated in very detailed and absolute ways (such as environmental standards), but most often not. It is not uncommon those decisions and rules represent general norms and standards to be implemented through the so-called Open Method of Co-ordination (Jacobsson and Schmid 2002). The open method of co-ordination is a mechanism that allows autonomous convergence. The last type we may call *deviant convergence*. In such situations there is tight coupling with respect to normative, cognitive and practical arrangements, but at the same time strong pressures towards national de-coupling. It is important to say that such cases are not so common.

Also, the other authors have to distinguish between *attractiveness*, where convergence emerge because one model is generally seen as superior, and *imposition*, where a model is preferred by a winning coalition and dictated to others (Olsen, 2003: pp. 506-531).

Attractiveness signifies learning and voluntary imitation of a superior model. The receivers copy an organizational form because of its perceived functionality, utility or legitimacy. Likewise, a common model can emerge through joint deliberation, or each country facing the same challenges can independently develop similar solutions. Convergence as attractiveness is likely if a single administrative prescription is generally viewed as superior to other ways of organizing the public administration, globally or in the European context. Imposition signifies convergence based on the use of authority or power. A single model penetrates the territory and weakens or eliminates established institutions. The classical theories of EU integration represent a special case, what it may be called imposed convergence. This type combines tight coupling between EU level and national level, with respect to both normative/cognitive and practical organizational and behavioural requirements, on the one hand, with weak pressures for de-coupling, on the other hand.

Considering those presented we can conclude that in case of Romania and Bulgaria it is talk about attractiveness determined in 2007 by the desire of both countries to be EU members and developed from the necessity for adaptation to European standards. The arguments used in the empirical analysis will advocate in this sense.

The specialized studies, Bennett (1991) emphasis four general mechanisms which may induce national policies to converge:

1. Emulation, characterised by „the utilization of evidence about a programme or programmes from overseas and a drawing of lessons from that experience” (ibid., p. 221).
2. Elite networking, characterised by „the existence of shared ideas amongst a relatively coherent and enduring network of elites engaging in regular interaction at the transnational level... Unlike emulation, the policy community engages in a shared experience of learning about the problem” (ibid., p. 224).
3. Harmonisation „driven by a recognition of interdependence” (ibid., p. 225) and characterised by „the coincident recognition and resolution of a common problem through the pre-existing structures and processes of an international regime” (ibid., p. 227).
4. Penetration, „in which states are forced to conform to actions taken elsewhere by external actors” (ibid., p. 227).

II. EMPLOYMENT POLICY CONVERGENCE OF ROMANIA AND BULGARIA. TO BE OR NOT TO BE?

The occupation remains the balancing factor and streamline the functioning of the labour market and stimulate growth.

The first essential document in the structure of European strategy on employment, is the Treaty of Amsterdam (1997) as it is being found for the first time, the concept of "coordinated strategy for employment". In this treaty was included a title with regarding on employment in which achieving a high level of employment is set out not only as being a key objective for the Union, but is even defined as a matter of common European interest. Among the most important meetings for the development of the European Employment Strategy are those in Cardiff (1998 - Cardiff process - economic reform and market), Cologne (1999), Lisbon and Stockholm (2000), Barcelona (2002). In March 2000, the European Council in Lisbon set as the strategic goal for the next 10 years, make the EU in the most competitive and dynamic economy in the world based on the knowledge, capable of sustainable economic growth with more and better jobs and greater social cohesion".

Because after four years of launching the project, the results were late to appear, a group of specialists, coordinated by the Dutch Prime Minister Wim Kok do an analysis of the situation and published in November 2004, report entitled "Facing the challenge". The conclusion of the document was that the results obtained until then by the Member States are somewhat disappointing and that it appears necessary to adopt new Lisbon Agenda. The report also concluded that passing time can only be achieved through convergent and interconnected actions, supported by all Member States and directed the following five areas (Facing the Challenges, 2004: p. 1) the labour market: the rapid implementation of recommendations made by the European Employment Taskforce, developing of strategies for lifelong learning and increasing active life, making partnerships for growth and employment, 2) the knowledge society: the attractive research field must increase, 3) internal market: completion of the internal market for goods and capital and urgent action to create a single market for services, 4) the business climate: reducing the administrative barriers, improve the quality of legislation, 5) support measures for environmental protection: promotion of policies to improve long-term and sustained productivity through eco-efficiency.

In early 2005 was launched European Employment Strategy Review, reorienting efforts of Member States to two general objectives: achieving sustainable economic growth and wider and more jobs and better.

II.1. Employment Policy in Romania and Bulgaria

For Central and Eastern European countries, functionality of inter-governmental own system represents a priority for their governance, ensuring and arguing by facts its own capacity to adopt, implement and assess the public policy system (Matei, 2009, pp. 189-193).

European employment strategy is a set of common objectives of all Member States, forming an analytical framework and policies to support Member States and social partners in the modernization of labour markets and other structural policies in these countries. The final goal of "Europeanization" of national institutions of Member States of the European Union,

and even the candidate states it is represented by the inter-operability and institutional convergence in this supranational entity. Although, the convergence argument is in the economic substance and according to some authors it is difficult transferable in administrative plan (Dinu, 2006, Perez de Gracia, 2006, pp. 2433-2440), it can notice that the rules and the practices of national administrations will align in time to the same standards, and the similar will lead to unit (SIGMA, 1998; Pollitt, 2001, pp. 933-947; Poole, 2006, pp. 1051-1077).

In order to „measure” the convergence of national policies, one needs to compare political change in at least two countries and assess to what extent they are moving in the same direction. It is the case of Romania and Bulgaria, the case that we analyze in this work and looking over the relevant arguments. The subject is the employment policy of the labour force in the two countries during 2007-2010, but for a more complete approach we start the analyze with the presentation of several arguments for convergence in the entire administrative system.

The first argument in support of the thesis of convergence between the two countries is the existence of traditions, cultural values, economic, social similar due to the influence of the Ottoman Empire dominance and then the Iron Curtain in the two states. Therefore, Bulgaria and Romania are the countries the former socialist block, whose efforts for release were marked by the new democratic Constitution adopted as early as 1991. Becoming an EU member means accepting some common administrative standards, also.

Ziller (1998a, p. 137) observes that member states look to each other for inspiration.

The reforms in public administration in the two countries have endorsed passage from strongly authoritarian type of government and centralized economy to a democratic political system and market economy. The new administrative systems of the Republic of Bulgaria and Romania are based on the adoption of modern models for organization and functioning of the administration try to be in accordance with the best practices in the countries of the European Union. We can notice that the administrative systems of the two countries have similar administrative structures, which carry out similar functions for example, the ministries are strategic units for elaboration, planning, methodological assistance and monitoring of the implementation of the sector policies and which are organized hierarchically. Also, the administrative system of the two states has the same organization principles: lawfulness, transparency, subsidiarity, proportionality, decentralization, accessibility, responsibility and coordination, efficiency and effectiveness. From these principles may result and others (SIGMA, 1998, p. 10) specify the two countries.

The evolution towards the European Administrative Space understands convergence on a common European model and may be seen as a normative program, an accomplished fact, or a hypothesis (Matei, 2010, pp. 3-5). So, another argument to support the thesis of the convergence between the two countries is the fact that both are members of the European administrative space and share the same principles of organization of public administration.

The EAS “is a metaphor with practical implications for Member States and embodying, *inter alia*, administrative law principles as a set of criteria to be applied by candidate countries in their efforts to attain the administrative capacity required for EU Membership” (OECD, 1999: p. 9). This was developed by SIGMA with the support of the PHARE projects, in response to the European Council’s requests regarding the process of accession to the EU, formulated at Copenhagen, Madrid and Luxemburg.

This includes a set of standards for common action in public administration, defined by law and enforced by the practices and responsible mechanisms. As members of the European administrative space, public administration in Bulgaria and Romania should refer to these common principles: 1) reliability and predictability; 2) openness and transparency; 3) accountability; 4) efficiency and effectiveness.

Reliability and predictability, these attributes derive from the essence of the rule of law which affirms the law supremacy as “multi-sided mechanism for reliability and predictability” (OECD, 1999, p. 12). This principle, it may be rephrased as “administration through law”, a principle meant to assure the legal certainty or juridical security of the public administration actions and public decisions.

Openness and transparency impose themselves following the reality that public administration is the resonator of the society, assuring the interface with the citizen, the user of its services. In the European Treaties, transparency appears as a value of the good governance.

Accountability means that any administrative authority or institution as well as civil servants or public employees should be answerable for its actions to other administrative, legislative or judicial authorities.

Efficiency is characterized as a value consisting of maintaining a good reasoning between the inputs and outputs, while effectiveness consists in certainty of the fact that the performance of public administration is moving towards proposed goals, solving public problems by legal means.

Therefore, in terms of administrative convergence of employment of the two countries we consider as base the arguments already presented at which we add specific for employment, a set of common features which result from European social model. Despite intra-European differences, different historical experiences of the European countries it is often referred to the existence of a European social model (other than American or Japanese). The main features of this model are: extended social protection, social conflict resolution through consensual and democratic methods, social dialogue. It is better to notice that each country has its own social model and in spite of this, the social models of Romania and Bulgaria are based on common values, as above.

II.1.1. The present situation of labour market in Romania and Bulgaria

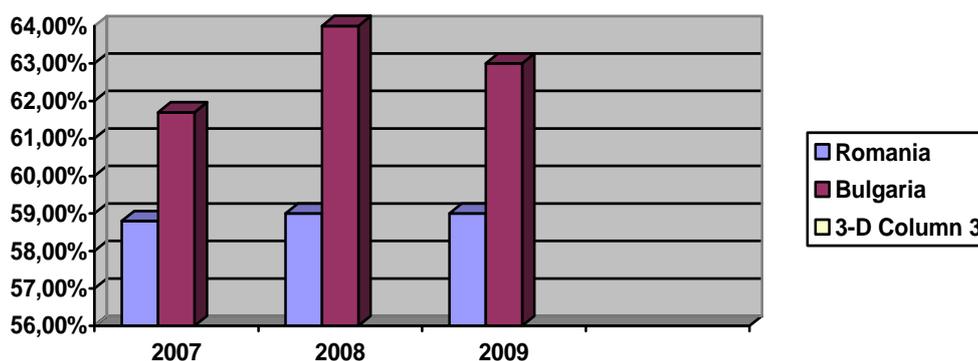
In the context of the process of economic transition, labour market in Romania has undergone significant changes in the volume and structure of the main indicators of labour. The main problems of the labour market are related to the new economic context, determined by the global economic crisis, reducing workforce and the occupied population – by maintaining a trend descendent of birth, growth of the external migration and the age of the population – the limited relevance of education for the demands of the market work, the existence of some legal and administrative barriers which affect the working of the firms and implicit the creation of new jobs.

Similar problems are encountered on the labour market in Bulgaria. The analysis of the current situation, trends and potentials for the labour market development allows outlining of

several major challenges, unfavorable demographic trends; changing the nature of working life, significant regional differences; restricted labour demand, significant over supply of workforce; unregulated employment. Also, with the new millennium it is found an easy decline of the working population in the last (2007-2010) in Romania it is seen a fluctuation of the indicator, the employed population. Employment of labour was affected by restructuring and modernizing the economy in both states.

In relation to these changes and the objectives of the European employment strategy, Romania and Bulgaria have developed their own employment strategies and action plans. In the table below we can see a general structure of labour market in Romania and Bulgaria.

	Romania			Bulgaria		
	<i>Active Population</i> ^{2 3}	<i>Employed Population</i> ⁴	<i>Employment Rate</i> ⁵	<i>Active Population</i> ⁶	<i>Employed Population</i> ⁷	<i>Employment Rate</i>
2007	9,994,000	9,353,000	58.8%	3,551.300	3,211,292	61,7%
2008	9,944,000	9,369,000	59%	3,549,000	3,331,000	64%
2009	9,979,000 ⁸	9,315,000	59% ⁹	3,503.800	3,281.500	63%



Evolution of employment rate in Romania and Bulgaria

II.1.2. Policy style

In the field of employment on European level unusual dynamic process are developing which reflect directly on the necessity for reforming of the national labour market and are aiming to achievement of much closer binding of employment policy in the framework of the Lisbon Strategy (Great Britain Parliament, 2007).

Until recently, the social policy in Bulgaria and Romania has been guided by the principle of passive social protection, but new social phenomena have led the states to switch to active social policy in order to create a just social order. Both states develop an active employment policy. Through active policy on the labour market (information and professional advice, labour mediation, programmes and measures for employment and training and vocational training, advice and assistance to start an independent activity or a business) the state aims at

including permanently the unemployed persons on the initial market, as well as to improve the correlation between demand and supply of labour force.

EU member states including Bulgaria and Romania base their employment policies on three main objectives considered of major importance in the European employment strategy, namely: 1) full employment of labour; 2) improving the quality and the productivity of the work; 3) strengthening the cohesion and social inclusion. The politic instrument suggested for their achievement is called "open method of coordination"¹⁰ and "Join Assessments Papers on employment priorities- JAP" represents the first stage of cooperation in the employment field between the European Commission and members countries and candidate states.

II.1.3. Policy content

Romanian and Bulgarian employment policy is harmonized with the requirements for compliance with the European and international standards, reflected in the European Employment Strategy and its priorities, the recommendations of the International Labour Organization (ILO), the Organization for Economic Cooperation and Development (OECD) and other international organizations. In both countries the employment policy is targeted to increase the employability and to promote the activeness on the labour market of the disadvantaged groups of employment: young people, person with low education and qualification, long-term unemployment, persons with over 50 years of age.

The Employment Strategy of the Republic of Bulgaria was developed on the basis of the following documents: Human Resource Development Strategy 2000-2006; A Joint Report on Assessing the Employment Priorities in the Republic of Bulgaria (2002); National Plan for Economic Development; Bulgarian Government Program "People Are Bulgaria's Wealth", The Social Policy Strategy of the Bulgarian Government (2002) which had the main message of the strategy "Better order and social justice". For the Romanian strategy the basic documents are: Romanian Government Program, Common Document for Employment Policy Evaluating, National Plan for Development and Human Resource Development Strategy (2007-2013).

Both, Romania strategy and Bulgaria strategy emphasizes the fact that their objectives are formulated in accordance with the three major objectives of the European Strategy for Employment. The strategic objectives of the two documents are about the same. Romania has proposed the next medium and long term goals: 1) increasing employment levels of working age population and combat the effects of the structural unemployment; 2) promoting the adaptability of workers and 3) promoting social inclusion and strengthening of the social dialogue, while Bulgaria follows: 1) increasing employment and limiting unemployment; 2) improving the qualitative characteristics of the labour force and the productivity of labour; 3) achieving social cohesion and reintegration of the vulnerable social groups, which have the smallest chances for participation and job placement. For each objective there are a lot of other sub-goals.

The means and tasks for implementation of the above formulated goals and may be grouped in the following main dimensions for Bulgaria: 1) active and prevention measures for limiting unemployment and increasing the participation of the population labour force; 2) income policy that promotes employment; 3) promotion of entrepreneurship and providing

incentives to small and middle-sized businesses for the opening of more and better jobs; 4) transformation of informal employment into formal one; 5) enhancing the capacity of workers to remain active and introduction of active aging policy; 6) increasing the adaptability of the labour force to the changing economic conditions; 7) increasing the human capital and activation of the life long learning policy; 8) development of the policy for equal opportunities and free labour market that is accessible for all social groups; 9) development of active policy on the labour market that is targeted towards the full social and economic integration of the risk groups on the labour market; 10) limitation and overcoming of the regional disparities on the labour market (Employment Strategy of Bulgaria, 2004-2010, pp. 24-25).

Compared with those, the main dimensions stipulated in Romanian employment strategy are: 1) active and prevention measures for unemployment and inactive persons; 2) creating new jobs and promotion entrepreneurship spirit; 3) promotion of adaptability and mobility in labour market; 4) increasing the human capital and activation of the life long learning policy; 5) increasing the labour market offer and promotion of active aging; 6) gender equality; 7) transforming undeclared work into proper employment; 8) overcoming of the regional disparities on the labour market (Romanian Employment Strategy, 2004-2010, p. 33).

This analysis emphasizes that in field of employment policy are the same common elements and principles for Romania and Bulgaria.

To this we add the fact that Romanian and Bulgarian legislation is based on the civil law systems (Reitz, 2007, pp. 29-31, pp. 285-287). Employment relationships between individuals and employers are regulated predominantly by the Constitution, the international treaties which Romania and Republic of Bulgaria are signatory and that have been ratified by the Parliament and domestic legislation.

The most important legislativ tool for the implementation of the policy is the Labour Code, but for civil servants we have a specific legislation-public law. Also, it is important to note that resources for the implementation of social policy and financing of active labour market policy, measures and programmes come from state budget and state social security budget.

II.1.3. Policy structure

Because the convergence imply also, common structures, let see if in Romania and Bulgaria, in field of employment we have similar or the same institutional framework. The institutional framework of the labour market consists in institutions with responsibilities and duties related to the development, implementation and monitoring of the employment policy.

The main institutions in Romania and Bulgaria with responsibilities on employment policy are: 1) the Government or Council of Ministers¹¹; 2) ministries¹², in special, Ministry of Employment, Family and Social Protection (Romania) and Ministry of Labour and Social Policy (Bulgaria) which collaborate with others to implement the social policy; 3) National Employment Agency¹³; 4) teritorial and local institutions; 5) unions and patronages.

Regarding the institutional framework, the European Commission acknowledged the progress made by the national authorities as regards strengthening the institutional framework and recommended to do substantial efforts in reforming public administration.

CONCLUSIONS

The answer of the question whether there is a convergence among public administrations is that there are some common values and principles, related to the European democratic tradition and contemporary administrative practice, which have a strong influence on the EU administrative space as a whole and on each of the member states. Therefore, the achievement of a certain level of convergence in a particular national administration is of vital significance for its incorporation in the European administrative space and the transformation of its administrative system is a tool for achieving the desired convergence.

With regard to Romania and Bulgaria the last empirical analysis for validation the different assumption of convergence emphasizes the existence of common features into these two countries. First, we believe that between Romania and Bulgaria exist a same degree of convergence due to the similar historical experiences. Therefore, the countries have same common values and traditions.

According to the general definition given to the concept of convergence „common and shared legal rules, similar institutional, organisational, procedural and behavioural arrangements” the analysis on labour issues in the two states showed a similar social model which is based on about the same principles: legal compliance, reliability, preventive measures, sustainable results, effectiveness, efficiency, coherence. Considering the principles of the social model in Romania and Bulgaria we can conclude that they share the values of Continental model (strong focus on social security and pension systems, the importance given to the trade union). At the European level have been developed four types of social model: the Nordic model, Anglo-Saxon model, Mediterranean model, Continental model.

Also, the hypothesis of the convergence between the two states is validated by similar structure and functions of the responsible institutions for policy implementation. In the same time both countries are members of the EURES network, tool that facilitates improving employment.

After the theoretical documenting and the analysis of the statistics data we can talk about the existence of a certain degree of convergence between the two countries of a similar social model and we consider that this tendency of convergence of the administrative systems can be seen in other EU member states.

Notes

⁽¹⁾ Typical examples are cases where EU level decisions and legislation reinforce already existing tendencies at the national level, as part of a solution.

⁽²⁾ Report Romania in figures, 2008; Romania in figures, 2009, p. 17, <http://www.insse.ro/cms/files/publicatii/Romania%20in%20cifre%202009.pdf>, retrieved on January 13th 2010.

⁽³⁾ Economically active population (active persons) comprises all persons aged 15 years and over, providing available labour force for the production of goods and services; it includes employed population and ILO unemployed.

⁽⁴⁾ National Statistical Institute of Romania, Statistical Yearbook 2007 available on the website <http://www.insse.ro/cms/rw/pages/anuarstatistic2007.en.do> Employment includes, according to the methodology of "Household labour force survey" all persons aged 15 years and over, who carried out an economic activity producing goods or services of at least one hour) during the reference period (the week previous to the recording) in order to get income as salaries, payment in kind or other benefits.

⁽⁵⁾ Employment rate represents the ratio between employed population and total population aged 15-64 years expressed as percentage.

⁽⁶⁾ The data are obtained based on the analysis of activity reports of the National Statistical Institute of Bulgaria www.nsi.bg/Population_e/Population_e.htm, Population and Demographic Processes in 2008, Retrieved on: January 14th 2010.

⁽⁷⁾ Sursa: <http://epp.eurostat.ec.europa.eu>, Eurostat [tsiem010], and National Employment Agency of Bulgaria http://www.az.government.bg/eng/internal_en.asp?CatID=15/04&WA=NumCharts/LabForce.htm, retrieved on January 14th 2010.

⁽⁸⁾ The data are estimates and are calculated by the author on reports the National Institute of Statistics of Romania in first three quarters available on the website <http://www.insse.ro/cms/rw/pages/comunicate/arhivasomaj.ro.do> retrieved on January 13th 2010.

⁽⁹⁾ The data is estimate and is calculated on author on reports the National Institute of Statistics of Romania in first three quarters available on the website <http://www.insse.ro/cms/rw/pages/comunicate/arhivasomaj.ro.do> retrieved on January 13th 2010.

⁽¹⁰⁾ The open method of coordination tool of the Lisbon Strategy, provides a new framework of cooperation with Member States use national policy instruments in order to achieve common objectives in areas that fall within national competence, such as employment, social protection, social inclusion, education, training, post-accession strategy of Romania, pp. 43-46.

⁽¹¹⁾ Strategic centers for formation and general coordination of the national policy.

⁽¹²⁾ Strategic units for elaboration, planning, methodological assistance and monitoring of the implementation of the sector policies.

⁽¹³⁾ Executive agency for the implementation of the government policy on employment promotion.

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CONVERGENCE OF CROATIAN FINANCIAL AND BUDGET REGULATIONS TO THE FRAMEWORK AND PRACTICES OF THE EUROPEAN UNION

Davor VAŠIČEK

Faculty of Economics, University of Rijeka
Croatia

Ivana MALETIĆ

Ministry of Finance of the Republic of Croatia

Abstract

As of 2004 intensive preparatory activities for the accession of the Republic of Croatia into the European Union have started. Significant changes have been taking place in legislation, institutional and administrative respect. The so called “silent reform“, is changing the appearance and the way of work of state administration. Institutions acquire the rules and way of work of the European Union through the usage of pre-accession programmes. General opinion moves in the direction of successfulness, competitiveness, attainment of results and added values. Financial regulations regarding stipulation of budget processes have been changing through the introduction of the following elements: strategic planning, multi-annual budget framework, fiscal discipline, internal audit as well as financial management and control system based on clearly set work processes and procedures. This document provides the description of the most significant changes regarding financial management and budget regulations in the Republic of Croatia which have taken place in the course of adapting (developing) the system to the European practices and rules.

1. INTRODUCTION

The model of financial management, which is to be applied in member states, is not defined by the Community's *acquis communautaire*. However, in the area of fiscal policy and budget management, several requirements are laid down to be fulfilled by member states. The requirements are mostly related to the following: 1) provisions referred to in the Treaty of Maastricht on the European Union (signed in 1992) defining fiscal policy objectives as a deficit amounting to 3 percent of the GDP, 2) criteria of statistical nature and data, 3) procedures in combating irregularities and fraud, 4) regulations on public internal financial control system and 5) the status and manners of external audit work.

In other areas of financial management there are no concrete rules or the EU legal framework which member states obligatorily apply. However, each of member states is responsible for developing their own management system. In this context it is important to take into consideration the need for the following:

- clear correlation of the Government's strategic political and economic priorities with the budget;
- ensuring effective and high quality implementation and utilisation of European Funds;
- creating relations of trust with other member states, European institutions, and particularly with the European Commission.¹⁷³

For the purpose of satisfying the above mentioned criteria and expectations set before the member states, the majority of countries has already in the accession phase started with reforms in the area of public finance management. Reforms are primarily related to defining and introducing: the multi-annual fiscal framework, strategic and programme planning, the policy of capital projects management, special mechanisms of monitoring the implementation of programmes as well as supervision and reporting on objectives accomplished.

Below paragraphs provide for the overview of changes which were encouraged in the Croatian public finance system and budget management in the course of accession process and adoption of the European Union practices.

2. PREPARATION FOR THE MANAGEMENT AND IMPLEMENTATION OF EUROPEAN FUNDS

Pre-accession assistance programmes¹⁷⁴ implemented by candidate countries for their accession into the EU, present the preparation for the management and implementation of forthcoming European Funds once a country becomes an EU member state.

By introduction of pre-accession assistance programmes the European rules for managing public finance were also partially introduced. In order for these programmes to start being used, the country, i.e. the institutions involved in their implementation are obliged to satisfy a

¹⁷³ Models of Public Budgeting and Accounting Reform, OECD Journal on Budgeting 2002, Budgetary and Financial Management Reform in Central and Eastern Europe, Richard Allen, p. 82.

¹⁷⁴ A unified Instrument for Pre-Accession Assistance (IPA) replacing CARDS, PHARE, ISPA and SAPARD pre-accession programmes was introduced in the financial perspective 2007-2013.

whole set of criteria laid down by EU regulations and financial agreements concluded with the European Commission, regarding the implementation of a particular programme.

2.1. Accreditation criteria – public internal financial control system established

Satisfying accreditation criteria is the main condition to be fulfilled for gaining work permit from the European Commission and for managing European Funds. In accordance with the above said, all institutions involved in the implementation of EU pre-accession programmes are obliged to carry out detailed and comprehensive preparations regarding the establishment of control environment, risk management, control activities, monitoring and evaluation system as well as information and communication system. All the above mentioned is defined in the Annex to the European Commission IPA Implementing Regulation¹⁷⁵ (hereinafter: IPA Regulation).

These areas actually constitute parts of the comprehensive concept of the sound financial management, i.e. the basic components of the public internal financial control system defined by the Law on public internal financial control system¹⁷⁶.

Therefore, during the period of accession to the EU, internal financial control system is being introduced into the practice of a candidate country through two processes. One of the processes includes preparation and utilisation of EU pre-accession assistance programmes for which all institutions must have fully established internal financial control system, in accordance with EU requirements. The other one is the negotiation process in the framework of which, in Chapter 32 - Financial Supervision, a candidate country becomes obliged to set up and apply internal financial control system.

Through the system of managing pre-accession assistance programmes the Republic of Croatia acquires practical experience on the European Commission requirements in the framework of each particular element of the internal financial control system. This experience has been developed since 2004 when preparations for the utilisation of first pre-accession assistance programmes – PHARE, ISPA and SAPARD took place.

At the same time from 2004 in the framework of negotiations the activities on primary and secondary legislations regarding public internal financial control system have commenced (PIFC)¹⁷⁷.

At the very beginning of 2004, but also during following few years, it was still not sufficiently recognized that these were all identical processes of financial management through which, on one side the system of EU pre-accession assistance programmes was built, while on the other side the processes have been introduced into the existing system in order to improve the financial management of state (and local) budget.

¹⁷⁵ Annex to the Commission Regulation No 718/2007 of June 2007 implementing Council Regulation No 1085/2006 establishing an instrument for pre-accession assistance (IPA).

¹⁷⁶ Official Gazette 141/2006.

¹⁷⁷ In September 2004 the Government of the Republic of Croatia adopted the first PIFC Strategy. In the same year the Memorandum of understanding on administrative cooperation between the Ministry of Finance and the EC Directorate General for Budget was concluded.

The reason for a separation and a kind of parallel work on the system of managing EU pre-accession assistance programmes and the system of state budget was the speed at which certain knowledge on and elements of the internal financial control system were supposed to be adopted. Therefore, for example, the accreditation process for PHARE, ISPA and SAPARD programmes took place throughout 2005, and it was already then that all institutions managing the programmes were supposed to have regulated and described work procedures, process maps, audit trails, risk management methodology, irregularity management functioning and irregularity officers appointed, including all other elements of the internal financial control system elaborated and established in details. On the other side, legal and implementing regulations just started to be developed and thought over at the national level. The exact elements of internal financial control system were clarified, i.e. the process of learning on the theoretical framework of internal financial control system was underway.

As of 2008 these two processes have been connected for the purpose of speeding up the overall process of developing internal financial controls at the level of central state as well as of local (regional) self-government units through 2009 and 2010 so that Croatia, as a member state could include as many institutions as possible into the system of managing EU Funds. In this way Croatia would also ensure the most effective and efficient usage of the funds offered. Only those institutions which have implemented all elements of internal financial controls may be a part of system of managing and implementing EU Funds. A system established and formed in the above mentioned way is also essential for national funds while strict criteria of sound financial management shall also be laid down in the budget system.

The overview of EU requirements is given in the paragraphs below for individual components of the internal financial control system and outlining the changes encouraged in the management of finance and taking place during their introduction and implementation.

2.1.1. Control environment

This criterion relates to the establishment of a good quality organisational structure and human resources management. The areas being evaluated are as follows: 1. ethics and integrity, 2. irregularity management and reporting, 3. human resource development comprising organisation development planning, employment policies, education and trainings, manners for motivating employees and retention policy, 4. sensitive work posts' management and prevention of conflicts of interest, 5. legal base for respective bodies – institutions and responsible persons, 6. job descriptions – formally established and followed principles of accountability, clear-cut segregation of duties and delegation of tasks as well as rights and responsibilities throughout the overall organisation. These elements of the control environment are defined in IPA Regulation. The definition of control environment and a part from the Law on public internal financial control system are not identical to the one from IPA regulations. However, in the essence of both regulations the control environment is highlighted as the basis of the internal financial control system which ensures conditions for the effective functioning of controls.

Ministries and other state administration bodies have already developed and introduced the majority of areas above mentioned, and the only issue which stays open is the level and the quality of their application.

2.1.1.1. Ethics and Integrity

Code of conduct of civil servants in the Republic of Croatia is stipulated by the Act on civil servants, the Act on servants and employees in local (regional) self-government and by the Code of Ethics of civil servants and employees. These documents define rules of good behaviour of civil servants.

Bodies which are not in the system of state administration have their own codes of ethics, e.g. State Audit Office, State Attorney Office or courts.

Bodies using and managing EU assistance funds have manuals which contain provisions on code of conduct and ethics of employees, arising from the above mentioned Acts and Code of Ethics. In these bodies all employees are obliged, immediately after commencement of employment, to sign the Declaration of Confidentiality and Impartiality.

The European Commission auditors have particularly addressed to the issues regarding the actual functioning of the system: starting with cases of reporting and manners of dealing with non-ethical behaviour up to the trainings on ethics which need to be constantly organised for all employees and which should present a compulsory part of the induction trainings for newcomers.

Although from a legislative point of view we have a well-defined system regarding ethics and integrity, it was exactly the accreditation process, i.e. the course of receiving work permit in bodies dealing with the implementation of pre-accession assistance programmes, that indicated the elements in this area which still need to be further built and enhanced in the overall state administration.

2.1.1.2. Irregularity management and reporting

The procedure of irregularity management and reporting has been developed in the system of managing pre-accession funds as early as 2005, in the framework of preparations for the first accreditation. In all bodies irregularity officers were appointed, and they are obliged to train other employees on the irregularity system and to send irregularity reports on a quarterly basis to the Department for Combating Irregularities and Fraud within the Ministry of Finance¹⁷⁸. On the other side, in December 2006 the Law on public internal financial control system was adopted. The Article 36 of the Law prescribes the obligation of a head of a body to set up a system for preventing the risks of irregularities and fraud and to undertake activities against irregularities and fraud. The obligation of appointing the irregularity officer who will receive notifications on irregularities and suspicions of fraud or who will independently undertake activities against irregularities or fraud is introduced. As opposed to the system of managing EU pre-accession funds, in this national part the process of irregularity management and reporting has not been described, therefore it is crucial to define the future role of irregularity officers.

¹⁷⁸ By the second quarter of 2008 the reports were sent to the National Fund, after that and in accordance with amendments of procedures, the reports are sent to the Department for Combating Irregularities and Fraud. The Department reports to the NAO on the detected irregularities. The Department also reports to the European Commission – OLAF and respective DGs on behalf of the NAO.

In the EU part, one step forward was taken relating to the protection of EU financial interest, the part constituting one of the items in the Negotiating Chapter 32 - Financial Supervision.

The AFCOS¹⁷⁹ system was established, encompassing the following:

- 1) Network of bodies managing and using EU pre-accession funds (irregularity reporting system; their representatives in the AFCOS system are irregularity officers);
- 2) Network of bodies dealing with suppression of fraud, corruption or any other form of irregularities in the system (AFCOS network);
- 3) Ministry of Finance – Department for Combating Irregularities and Fraud, fulfilling coordinative role within the system and representing a contact-point to the European Anti-Fraud Office (hereinafter: the OLAF).

The Department for Combating Irregularities and Fraud is obliged to undertake activities related to further, professional development of bodies in the AFCOS system, in the area of prevention, detection, proceedings, reporting and follow-up of irregularities and fraud.

In accordance with recommendations from OLAF, drafting of the proposal of National Anti-fraud Strategy for the Protection of EU Financial Interest has started.

Subsequent to the described system of irregularity management which was developed for the purpose of protecting EU financial interest, the following needs to be defined:

the way in which the coordination between different state administration bodies is to be enhanced in order to ensure effective prevention, detection, proceedings with and reporting on irregularities, and
the role of the irregularity officer together with work procedures,
within the system of managing budgetary funds in which the protection of financial interests also plays an important role.

2.1.1.3. Human Resources Development

The European Commission particularly highlights this element of internal financial controls, not only during the accreditation period, but also afterwards, during monitoring the quality of system work.

All bodies in the system of pre-accession assistance programmes implementation are obliged to have documents and procedures already adopted, as follows:

- 1) annual work plans with defined: a) objectives that each organisational unit must fulfil throughout the year, b) activities which they plan to carry out in order to fulfil their objectives, c) deadlines of the completion of the activities, and d) indicators by which the successfulness of performance of activities, i.e. the fulfilment of objectives is measured;
- 2) workload analyses outlining the number of people needed for carrying out activities having been planned and for fulfilling objectives having been envisaged; moreover, on the basis of the analyses, recruitment plans are developed;
- 3) training plans for each employee (defining trainings needed for an employee, when they will have the opportunity to attend the trainings and who are potential trainers, i.e. where the training is going to be performed, etc.) and they are obliged to keep a

¹⁷⁹ The system for combating fraud and corruption.

- training register (the list of all trainings for each employee and for the institution as a whole);
- 4) procedures for monitoring the successfulness of each employee's performance, appraising in compliance with the successfulness and awarding in accordance with the marks received in the appraising process.

The above mentioned elements of control environment are difficult to be developed separately, just for one part of the Ministry or a body involved in the implementation of EU pre-accession assistance programmes. It would be of significant importance to introduce mechanisms of work planning and monitoring the success in achieving results horizontally, i.e. for the overall system of state administration. Moreover, employment policies, awarding and promotions have to be developed as a unified instrument, and it is difficult to separate them to be specialised for only one smaller part within the organisation. This becomes particularly visible when taking into consideration the requirements laid down for the utilisation of EU funds. In the system of EU funds implementation it is necessary to develop the following:

- each institution included in the implementation system should have adopted organisation development strategy based on the SWOT analysis of the current state of play, analysis of training needs, recruitment (employment) plans and capacity building plans;
- unified and comprehensive institution development and capacity building strategy for the management of EU funds must be developed, based on the risk analysis of all bodies in the implementation system, including also final beneficiaries, if they are known;
- satisfactory careers' planning and salary strategy.

2.1.1.4. Managing sensitive work posts and preventing conflict of interests

All bodies in the system of the implementation of EU pre-accession assistance programmes, performed the analysis of sensitive work posts and identified measures for mitigating risks from potential irregularities or abuse of authority at the sensitive work post. One of the options in managing sensitive work posts is the introduction of the, so called, rotation or transfer of employees after several years to another work post. Until now this mechanism has not been used in the system, but rather sensitive work posts are largely and closely supervised in the following ways: internal audits are more often performed and the system of internal control lists is enhanced. Sensitive work posts' management policy has not been horizontally developed for the overall system of state administration. Therefore, in this context the regulations should be expanded so that in this part as well, we have a uniquely developed system of managing both EU and national funds.

2.1.1.5. Legal base for particular bodies – institutions and responsible persons

This control environment element has been uniquely fulfilled for institutions in the system of the implementation of pre-accession assistance programmes, but also both for all ministries and for other state administration bodies through legal acts and Government regulations establishing particular bodies, and defining both their scope of work as well as the organisation.

2.1.1.6. Job descriptions

In all state administration bodies acts on job organisation and classification have been adopted, outlining and describing all work posts of the body. It is required in the control environment that job descriptions arise from work processes and procedures, and that the audit trail clearly indicates that the segregation of duties and the four-eye-principle are followed. Also, each body needs to have the adopted substitution plan in which the above mentioned principles need to be followed.

The need for the set up of the financial management model among related institutions is particularly important in this part regarding the segregation of tasks, duties, rights and responsibilities.

Therefore, in the system of managing pre-accession assistance programmes there is an institution responsible for bringing strategic decisions and for planning, while the other is responsible for the implementation: from public procurement procedure to paying and monitoring project implementation.

In the system of budget and budget users, the analysis of activities carried out at the budgetary user will definitely indicate that, due to the segregation of duties and four-eye-principle, a larger number of employees is needed to deal with activities in financial management processes. In this case it has to be decided that either more people should be employed at the level of a budget user (however, this is definitely not a sound solution) or that particular processes and activities at the level of local or regional self-government unit are centralised. It is crucial to define which tasks need to be performed in a centralised way – at the level of a competent budget of a local and regional self-government unit, and which activities may be carried out at the user. In accordance with the above mentioned, and in order to ensure that the sixth element of financial management is regularly applied, the Ministry of Finance is in the process of developing the financial management model which will be presented to all local and regional self-government units.

It may be concluded that these six elements of control environment significantly influence the organisation and manners of work. Therefore, in the process of Croatia's accession through the implementation of these elements significant changes take place and they positively influence the quality and efficiency of operations of state administration. Concrete outcomes will be visible at the time when all elements are fully implemented.

2.1.2. Risk management

This criterion encompasses a lot more than just defining, assessing and monitoring risks. A unified methodology of risk management has been developed for all institutions in the implementation system of EU pre-accession assistance programmes. In accordance with this methodology every employee, through their everyday work, detects risks which are detrimental to the accomplishment of objectives which were laid down. They report on these risks, by filling a special risk reporting form, to the risk management officer who keeps risk register. Twice annually during meetings with managers and heads, activities are determined for risks referred to in risk register which are followed in the process of their elimination or for mitigating their impact.

The basic preconditions for the introduction of risk management system are previously described and already implemented elements of control environment, particularly the

following: a) objectives are defined through the whole organisation, b) all stages (activities) needed for meeting the objectives are well planned, c) all necessary resources per each activity are defined, d) the segregation of duties regarding specific objectives is clear and set.

2.1.3. Control activities

The quality of the procedures established within each of the financial management processes and the efficiency of their implementation in practice are evaluated in the context of this criterion.

Apart from developed procedures of procurement, payments, budgetary procedures for ensuring financing, procedures for ensuring the continuation of organisation functioning (substitution plan, transfer of knowledge in cases of employees leaving their posts, etc.), accounting procedures, data reconciliation, security, archiving, recording and reporting on weaknesses of the internal control system, in the context of this criterion it is crucial to develop a system in a proper way to ensure: 1) additional check of all transactions, and 2) active supervision of system work carried out by a responsible person.

The two last elements above mentioned introduce significant changes in the financial management system. All ministries and other state administration bodies which make payments to final beneficiaries are required to introduce mechanisms of on-the-spot controls – not a single subsidy, donation or assistance may be paid out without a detailed control of activities and costs which the final beneficiary financed from these funds, as well as without the evaluation whether defined objectives were satisfied. Active supervision of the system work comprises the following: a system defined in detail about reporting on the implementation of activities; regular monthly meetings of responsible persons; monitoring of the fulfilment of work plan and objectives laid down; and finally a responsible person issues a statement by which they acknowledge and guarantee that the system functions in compliance with the rules laid down, and following all the elements of internal control system.

2.1.4. Monitoring and evaluation system

It is required by this criterion that institutions establish a system which will ensure that top-level managers/heads receive independent reports on functioning of the system which falls under their responsibility. In these reports it is important to focus primarily on the evaluation of the effectiveness and efficiency of the system and the quality of organisational structure, i.e. on the evaluation of the internal financial control system. For the fulfilment of this criterion one element was essential to have been introduced. This was the element of internal audit. During the accreditation process and precisely due to the importance of internal audit in the context of sustainability of operations of the system established as a whole, the EC auditors paid a special attention to the organisation and functioning of internal audit. They also highlighted the need for the urgent capacity building and for enhancing their function.

The internal audit, as a part of the comprehensive internal financial control system, is stipulated by the Law on public internal financial control system.

In the context of this criterion it is also important to ensure the monitoring of the implementation from the project level up to the programme as a whole. On the basis of the monitoring, the evaluation is performed on whether all activities were carried out legally, in accordance with procedures prescribed, and whether the objectives were attained. In

compliance with the above mentioned requirement in the system of EU pre-accession assistance programmes, each step in the management of a project is precisely defined, while the Monitoring Committee is obligatorily designated in order to monitor the implementation. The Committee convenes for the purpose of monitoring the progress of the project at least twice annually. At the level of priorities and measures as well as a programme in the overall, the committees are also formed for the purpose of monitoring the progress at these higher levels of the programme structure. For the purpose of evaluations, i.e. evaluating the progress, external experts are engaged in order to perform evaluations on the basis of precisely defined economic and financial indicators of the programme success.

2.1.5. Information and communication system

Information and communication system requires clearly defined information enabling the management and control of businesses.

In the framework of this criterion within pre-accession assistance programmes the following are crucial to be fulfilled:

- regular coordinating meetings for all institutions involved in the implementation of a certain programme;
- regular reporting on the status of the planned activities per programmes and per projects;
- reporting on projects' implementation in relation to the implementation plan laid down (implementation of procurement plans, analysis of deficiencies and evidence on activities undertaken aiming to improve the quality of work, contract implementation or comparison of costs in relation to results);
- regular reporting from all employees on the effectiveness and efficiency of internal controls so that they are informed on shortcomings identified and improvements needed.

In the system of pre-accession programmes several levels of audits perform checks on the system before the European Commission awards a work permit, i.e. evaluates that the system satisfies all described criteria laid down. Taking into consideration that, so far, we have received work permit for CARDS, PHARE, ISPA and SAPARD programmes, as well as in IPA components I – IV, it may be concluded that in the operational practice of state administration the rules of internal financial control system are being largely and more significantly applied.

The above described content of the accreditation criteria indicates that all institutions involved in the implementation of pre-accession assistance programmes had to acquire new knowledge and manners of work, and to implement in practice certain activities which have not been adopted yet in other parts of state administration. This significant progress which was introduced into parts of financial management system dealing with EU programmes is extremely important for a faster and a higher quality development of the system in the overall.

3. CHANGES IN BUDGETARY PROCESSES

Basic budgetary processes are as follows: planning, executing, accounting monitoring, supervision and reporting. These processes are applied both in the budget system and in the system of the implementation of EU pre-accession programmes, but also afterwards during

the implementation of European Funds. By the adoption of the new Budget Act¹⁸⁰ some important novelties were introduced in the processes of planning and executing, which enable easier implementation of the public internal financial control system, the main task of which are monitoring and evaluating whether objectives which were set are being achieved in a legal, regular, efficient and effective way.

Planning

The planning process of EU Funds is based on the following: programmes and application of the chronological principle. Since planning is a programme event, only and exclusively well set and defined programmes are being financed. Planning process falls under responsibility of line ministries and is coordinated by the Central Office for Development Strategy and Coordination of EU Funds (hereinafter: the CODEF).

The planning encompasses the proposal and adoption of strategies for particular areas, and in accordance with priorities of certain areas it includes proposal and preparation of projects to be financed from pre-accession programmes.

At all programme levels¹⁸¹ objectives and indicators of success in attaining objectives are defined, which is monitored in detail afterwards during the implementation.

The CODEF will, for the first time, prepare National Strategic Reference Framework for operational programmes 2011 – 2013. This is a strategic document brought by all member states for each financial perspective of the European Union¹⁸².

Precisely because of this strategic and multi-annual approach in the European budget it was important to improve the planning process by introducing strategic and multi-annual budgetary framework.

This was done in the Republic of Croatia through adoption of the new Budget Act:

The commitment of the strategic planning and of drawing up a strategy covering the period of three years for government's programmes has been introduced. This was performed so that strategic priorities and objectives of government's policy could directly influence the allocation of funds in the framework of the budget. Moreover, the objective is to connect the National Strategic Reference Framework (NSRF) with the strategy for a three-year-long period since only in this way the sustainability of the implementation of the first and the second document may be ensured, taking into consideration that all priorities referred to in the NSRF are supposed to be co-financed by budgetary funds.

Multi-annual dimension of the budget is ensured by the provision which defines that the Croatian Parliament, i.e. the representative body (at the local level) adopts the budget for one budgetary year, but also the projection for the following two years.

¹⁸⁰ New Budget Act was published in the summer of 2008 (OG 87/08), and entered into force on 1 January 2009.

¹⁸¹ Programmes consist of measures, measures consist of priorities and priorities consist of projects.

¹⁸² Financial Perspective lasts for seven years, and the implementation of the Financial Perspective 2007-2013 is ongoing.

Execution

After tender procedure and contracting of activities forecasted by a project, the financial implementation commences together with the execution of payment. Contrary to the budget in which, according to the Budget Act, advance payments are possible only exceptionally and in agreement with the Minister of Finance, in the system of EU pre-accession programmes and depending on the type of a contract, the specific percentage of the overall amount envisaged by the contract is paid to a supplier immediately upon the signing of the contract. The subsequent payments to the suppliers are executed in compliance with costs declared. Prior to payment stage, again depending on the type of a contract, the report on the implementation of a project is also submitted enabling the monitoring of and supervision over the implementation. Moreover, the last payment is not executed prior to final report on the successfulness of the project implementation and results achieved in relation to objectives set. The above mentioned procedures indicate that the focus on results and on the successfulness of work is not reflected only in the way of planning and selection of projects, but is reflected through the whole implementation cycle – from contracting to paying.

In the planning process the overall amounts, to be allocated for an individual programme/measure or priority, are defined. The funds distributed per projects within a priority may be reallocated without special procedures of European Commission approvals. The amounts are not planned according to types of expenditures per projects. It is only determined which types of expenditures are eligible to be financed, and which are not. Therefore, the implementation of projects, priorities, measures or programmes is completely flexible in respect of economic classification (i.e. individual types of expenditures to be financed).

In the process of budget execution this level of flexibility has not been reached, however improvements were introduced even in this part by the new Budget Act as follows:

more flexible budget execution and focussing on the outcomes of work is ensured through the adoption of budget at the higher level of economic classification, i.e. at the level of a subgroup (the third level) in relation to the, so far, fourth level of a section. Projections shall be adopted at the second level of the economic classification.

In the framework of negotiations, in Chapter 22 – Regional policy and coordination of structural elements, apart from introducing strategic planning and the possibility of multi-annual planning, as well as more flexible budget execution, it is also required that the funds for capital projects could be transferred from one budget year to another. This was stipulated by the new Budget Act as Article 55, Section 3 reads:

The possibility is introduced of transferring activities and projects for which funds have been ensured in the budget but have not been realised in the year concerned to the subsequent year. Namely, accounts for certain activities and projects received at the end of a year, the payment of which arrives in the subsequent year are drawn from the budget of the subsequent fiscal year. Therefore, it is important to enable their payment in the subsequent year although the funds have been ensured in the year concerned. Due to public procurement procedures being late or repeated, projects, particularly capital projects unpredictably move from one year to another. The accounts, relating to a concrete project which was envisaged in the user's plan to be completed by the end of a fiscal year, in which the funds were ensured, but it was completed at the beginning of the subsequent year, cannot be paid until the budget revision of the subsequent fiscal year. These examples indicate that it was very important to regulate by the Act the possibility

for the transfer of activities and projects from one year to another without needs for amending the budget.

All the above described indicates the fact that in the Republic of Croatia significant changes have been started in the process of acceding to the European Union regarding the system of managing public finance. The utmost objective of the changes comprises the improvement of work quality, the efficiency and the effectiveness in the management of public funds.

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Chapter 5

Evaluating a Case Study Relevant for NPM Application in Local Government

E-GOVERNANCE AS A STEP OF NEW PUBLIC MANAGEMENT

Roumiana TSANKOVA
TU-Sofia
Bulgaria

Abstract

In cybernetics sense the management of the administration involves the administrative-management processes planning and accounting, dissemination of administrative management information, decision making, feed-back. Now days according to Lisbon contract we have to think to a new management process so called “good management”. The “good management” in Lisbon content means management with transparency and visibility, with citizens wide participation in decision making and its realisation, to move from information society to knowledge society.

The e-Governance bring administrative services near to citizens and businesses, involves citizen and stakeholder to participation in planning and decisions making processes, improve mutual information communication through ICT, and enhance democratic processes at all. This means that in theoretical aspect the e-Governance is a form of the “good management”. This leads to improvement of the understanding of the e-Governance as a step of the new public management process at different levels of the information and knowledge society.

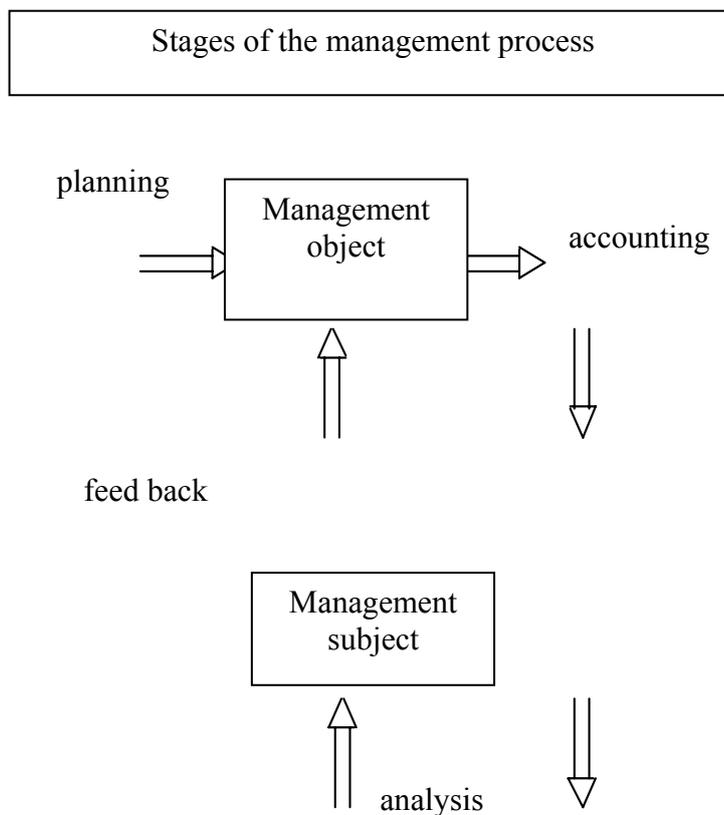
At present e-Governance exists like practice examples at both the strategy and policy levels, as well as at the actual practical implementation. In this paper some suggestions for the future innovative work in the e-Governance development will be proposed. Also two directions of the e-Governance like elements of the “new management” will be presented. The first one is the improvement of the visibility of the management decision making in the public management through videoconferencing. The second is a Web based system for dissemination of good public administration practices and formation of tacit knowledge.

Keywords: god management, governance, new public management, information society, knowledge society, videoconferencing, information-communication technologies.

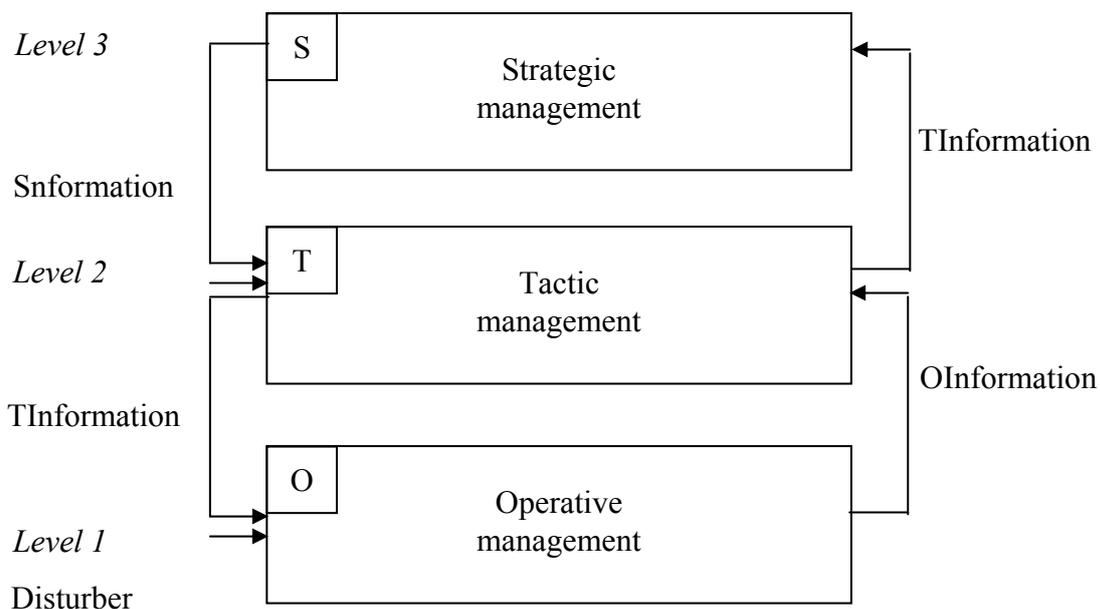
INTRODUCTION

The aim of this paper is to promote road to “good management” not only through theoretical studies, but also through some practical solutions. The term “good management” is the third stage in the management theory.

At the first stage in cybernetics sense the management of the administration involves the administrative-management processes planning and accounting, analysis - decision making, feed back under administrative services [1]. All of these operations are involved in every management process.



Besides classical management process is organised in management levels: (1) operative in our case municipalities; (2) tactic in our case regions; (3) strategic in our case government [2].



Further development of the management process

At the second stage of the developing of management theory comes New Public Management (NPM). It enforces competition (in adapted form) as a reliable tool for achieving of greater efficiency in the activities of the state institutions. The New Public Management is characterized as a market oriented approach to manage the public sector. He changed the paradigm in the management: enforcing competitive provision of public services, including through private companies [3]. The NPM have added the principles of effectiveness and efficiency in the whole management process: planning, accounting, analysis, regulation. It is clearly said that the management object are the administrative services in state and business. The principle of the New Public Management is derived from the management of the corporations, that's why it closes the gap between the state governance and the corporate management.

According to Cris Conforth [4] Governance has been described as “the systems and processes concerned with ensuring the overall direction, effectiveness, supervision and accountability of an organisation”. The Governance as a management process is organised in three levels:

“In a small community group governance might be about getting things in place, making sure it's clear who is doing what and making sure that all concerned are working together to a common cause.

In a local service providing organisation, governance might be more focused on the relationship between the trustees and staff team, and ensuring good service delivery.

In a larger national or regional organisation, governance might be about the need to demonstrate how the organisation delivers on its mission through quality service provision, its accountability to the public and stakeholders.”

These levels are very close to the local, regional and national administrative levels. All this means that the Governance is a step of the NPM.

At this stage the wide use of Information and Communication Technologies (ICT) is realised and now we are speaking about electronic Governance (e-Governance). The e-Governance bring administrative services near to citizens and businesses, involves citizen and stakeholder to participation in planning and decisions making processes, improve mutual information communication through ICT.

The main principles at this management stage are [5]: Selflessness, Integrity, Objectivity, Accountability, Openness, Honesty and Leadership.

The third stage of the management process development is “good e-Governance”, so called “good management” in Lisbon content [6]. Good e-Governance means management with transparency and **visibility**, with citizens’ wide participation in decision making and enhance democratic processes at all, to move from information society to **knowledge** society. The good governance makes and executes management decisions that pursue to achieve a high degree of satisfaction of the public expectations by the operation of the governments. This is a management, which includes all interested social groups in the process of making and implementing of the public policies. Good governance is characterised as management in partnership with all stakeholders [7].

Some practical ICT implementation for the good management and good e-Governance

To promote good e-Governance and ensure the participation of civil society the public institutions, bodies, offices and agencies operate at the greatest possible respect, openness, visibility and predictability.

At present e-Governance exists like practice examples at both the strategy and policy levels, as well as at the actual practical implementation. Also two directions of the e-Governance like elements of the “good management” will be presented.

The first one is the improvement of the visibility of the management decision making in the public management through videoconferencing.

The videoconferencing is a set of interactive telecommunication technologies which allow the objects, located in two or more locations, to interact via two-way transmission of video and audio information.

Videoconferencing technology is necessary in case of:

- Need for direct communication;
- Need of visual information communication;
- Lack of opportunity for the communication participants to be physically in one place;
- Significant costs (financial and time) for a physical meeting.

To address these requirements, help the following videoconference properties:

- eye contact and commitment to ongoing events;
- multipoint connection;
- multifunctional connection.

Analysis of the functional capabilities of videoconference directed to the appropriate use on the following administrative and managerial situations [8] Lenk:

Remote conferencing - integration of live sessions by organizing a group of employees in a job or business area. Remote conferencing liaise between different hierarchical levels in order to avoid the need for personal presence of the participants in one place. Individual participants can be found on their jobs or in any geographic area, even in traffic. In this network connection can be implemented through a digital mobile network. The initiator of the meeting can be both a manager and employee mounted on the corresponding business line. Remote conferencing is done using videoconferencing technology Teleseminar by applying her mission to save money, time, etc.

Parallel multi-purpose performance of administrative and management processes. In many cases it is necessary in parallel and simultaneously to monitor multiple processes. Each of these processes is a combination of different operations performed at different locations and with different software tools and technical or technological mix. This is done through a shared videokonferirane screens. Unlike any meeting of communicating parties working with different technologies.

Controlling the implementation of specific administrative management processes.

Nowadays the process of the administrative services modernization is mainly oriented to the use and development of e-government like way of closeness to the citizens. In this direction on-line realization of the administrative services pass over the four levels: place information at citizens disposal via WWW, give an opportunity to citizens to fill in documents via computers, to give an opportunity to citizens to send back filled documents via Internet, to send to citizens finished documents. The fourth level is very convenient for the end users administrative services.

However, in this on-line process it is necessary to achieve greater transparency and reliable feedback by appropriate management levels. For instance, a control on the consumer information entry has to be secured visually as regard to the truth when filling, and in terms of its protection.

For another group of services in the field of different areas is necessary to have direct control of the governance for corruption prevention and sensitizing of staff members.

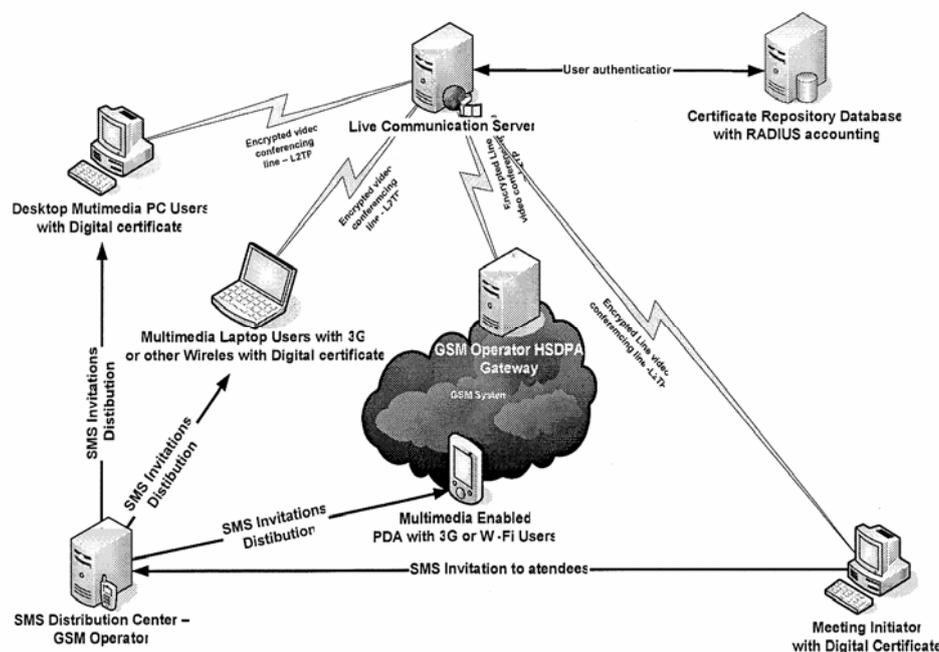
From an economic point of view e-conference will find widespread application in various advisory and educational activities. In this area they can provide high economic efficiency - to save on transport costs, of participants from being cut off from their direct commitments, will save time. This is essentially another form of bringing the administrative services to citizens. This could be realized through virtualization using communication tools, e-conference and visualization technologies. A typical example in this regard is to ensure reliable control during various competitive activities in the transportation, security measures in different technical systems.

The videoconferencing technology provides opportunities for conducting remote electronic training also:

- Video seminars;
- Video lectures;
- Video consultation.

Technical preconditions for good e-Governance via video conference

In the good e-Governance and control process there is a lot of collaboration intensive work with municipal councils, local, regional and national administration. This means that we need multidimensional methods to access the process of administrative servicing. In many cases the process of dialog between customers and administrative heads has to be monitored and controlled face to face [9]CH. Such a kind of communication is possible to organize from distance using videoconference hardware and software tools. At the moment there are enough hardware and software devices. The advancement in the global networks both computer and phone creates sufficient hardware preconditions. As Regard to the necessary software the main problem is in achieving compatibility between the different types of channels, but in this area has enough while still pilot decisions.



Architecture of good e-Governance via video conferencing

For the purposes of the creation of system for distance monitoring and face to face control of administrative services we can use three level structures. First level includes integrated RADIUS account data base. The second level presents logic and communications architecture of the monitoring and control system. The third level communicates with users and manages multimedia data flows. All three levels work in multi-channel mode. This means concurrent usage of the various types of channels. This provides not only reliability in the operation, but also greater mobility.

The functions of the systems are as follow:

1. Visual Meeting initiator sends request for e-conference participation via SMS Distribution center and initiate e-Conference virtual hall.
2. Various attendees receive invitations on their GSM phones.
3. Every attendee connects his device (Multimedia Enabled Desktop PC, Multimedia laptop w/ 3G or 802.11a/b/g or PDA w/ 3G or Wi-Fi) to the Internet.

4. Every attendee initiates L2TP connection with Live Communication e-Conference Server machine using Live Communication Client.
5. Real time connection verification by Certificate Repository Server with RADIUS accounting, which allows encrypted video, audio and slideshow real-time streaming.
6. Every attendee connects and presents himself in e-Conference Virtual Space.
7. Meeting Initiator begins meeting

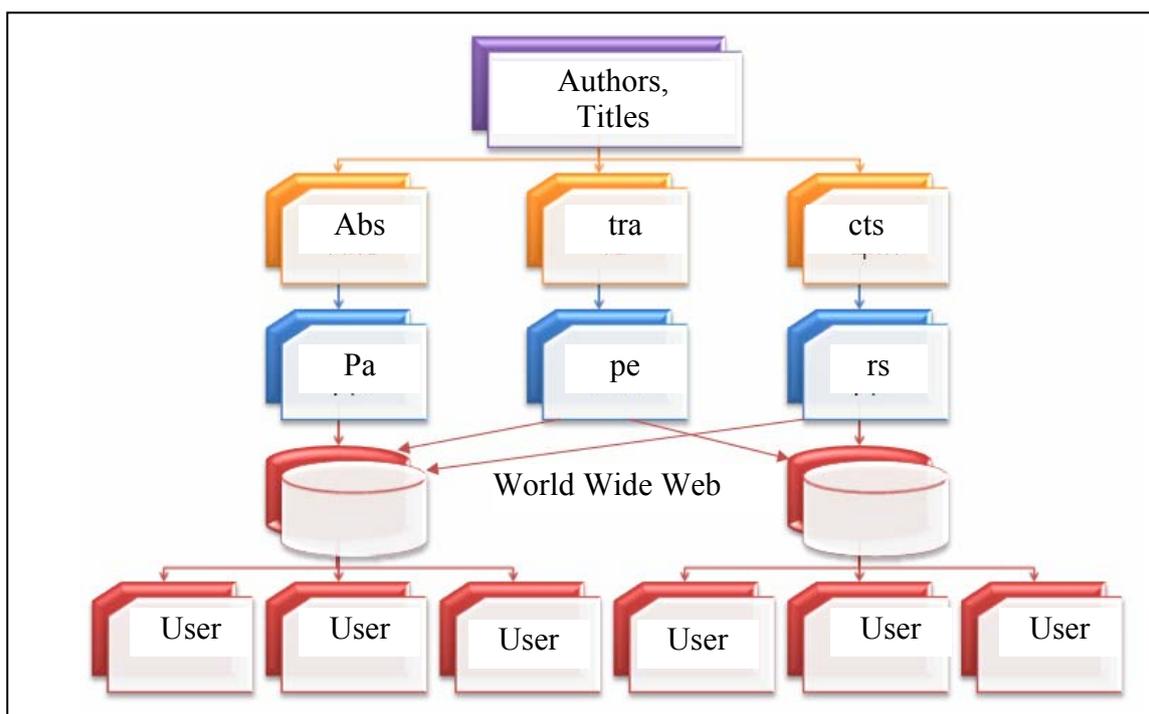
The second case study is a Web based system for dissemination of good public management practices and formation of tacit knowledge.

The Virtual library can be regarded as a normal library operating without, however, it is necessary to relevant publications are actually in it. Nevertheless, it can function as a normal library that is real 'virtuality'. To solve this problem of library search technology can be adapted and applied in the Internet environment in terms of technology World Wide Web (WWW). Undoubtedly, the integration of these two technologies is a costly event, which is effectively applied to small but a lot of necessary information volumes. These are precisely the best practices in administrative services. They do not describe in great volumes, but are much needed and sought. Usually they try and implementing their share of conferences, seminars, roundtables, discussion forums and remain locked in their writings in print or electronic form. Even be exported to sites, access to them is the content of their titles or key words. In rare cases, can be reached by the names of their authors and their annotations. For in-depth search apply search engine indexing that work with and pay accordingly. In the project "Center for Research and Training in e-Governance" the goal is to provide both options, but in terms of free information access.

Structure of the information content of the Virtual library

The Virtual library is being built in the WWW site. It is structured into four layers: author, abstracts, reports and links to other sites. The first two layers correspond to the requirements of the international library and information standard BibTeX, the third corresponds to the books in the real library [10]. The forth layer corresponds to the bibliography.

Authors layer includes information about the author and the name of the material. It can be done with publicly accessible search engines. Abstracts layer contains annotations of various materials and their keywords. These sites are indexed to the second layer and is available in the database. The third layer includes the full text of the reports. They are physically located on the web server. The fourth layer of the information is displayed to users.



To achieve its objective the Virtual library provides four groups of functions: search by user demand in the abstracts and keywords registered users to gain access to the following more detailed information, consistent view of the reported materials, a link to thematically related materials. This functionality is provided by three levels software architecture. Visualization of the literature data is provided by the now classic hypertext structure of the Web site with its browser. It is managed by the web server. On the third level are the data base and software managing it. All three levels are associated with the respective interfaces. Such interfaces are provided for initial entry and maintaining data. Data is entered and maintained by Information Administrator, as can be in different but compatible with the Data Base Management System (DBMS) forms. This allows to be taken prepared to print material from various conferences and special publications sent to the library. Integrating DBMS architecture provides flexibility for it, but stable condition. Based on accumulated information on best practice methods of treatment with the artificial intelligence can be derived in an obvious form of management information needed for decision-making in typical management situations [11].

Conclusion and recommendation

Nowadays the good governances require full transparency and predictability of the administrative-management information. At present days it is not enough to use WWW technology and Internet. The new Information society needs more transparency, accountability, multidimensional information view and human control, which could be reached using the new achievements of the information technologies combined with communication technologies and skills like videoconferencing, artificial intelligence etc.

The further development has to be seen in direction of the involving of the new information channel, business technologies, new intellectual methods in the public administration governance.

The introduction of video-conferencing in two new important areas is forthcoming - (1) verification and protection of information and (2) training sessions and mobile conferences. The implementation of the good practices will reach to new tacit knowledge.

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USING THE NEW PUBLIC MANAGEMENT'S INSTRUMENTS TO MEASURE THE PERFORMANCE OF LOCAL PUBLIC TRANSPORT SERVICE (RATB) IN BUCHAREST

Alexandra IANCU

National School of Political Studies and Public Administration, Bucharest
Romania

Abstract

New Public Management has emerged as a reaction to the traditional model of public administration, a bureaucratic, hierarchical, rigid, inefficient model, which led to the distancing of government from citizens. Public organizations which were organized by the traditional, bureaucratic model were increasingly criticized for lack of efficiency and quality of public services. One of these was RATB (Autonomous Administration of Transportation Bucharest), which provided local public transportation services, of whose requirements were not at the demands' levels of citizens from Bucharest. Thus, it needed to be taken a series of measures to improve public transport service, by applying New Public Management, from changing the law in 2007 and the introduction of quantitative performance indicators and to the acquisition of new means of transport and improvement of existing, shorter waiting times, increasing the comfort stations waiting, transport safety and security of passengers. Since the New Public Management is focused on introducing performance standards, testing and comparing results with quantitative performance indicators, the principle of the 3 E: economy of resource use, efficiency and effectiveness, in the present study we conducted a brief analysis of the quality of local public transport service in Bucharest on the basis of eight quantitative and qualitative indicators for public transport services established by legislation.

These indicators were: satisfaction of passengers (it has been considered the journey, informing passengers, vehicles' and stations' condition and the distribution system efficiency of ways of transport); medium specific load (at peak and the peak hours); average waiting time (at peak and the peak hours); average travel time (to peak and the peak hours); environment (noise pollution, pollutant emissions); transport safety and security of passengers (accidents, defects and technical incidents); the way the fare reflects the quality of services; quality control system in the vehicle.

The analysis was based on a number of surveys that were conducted by RATB since 1999 until the present (2009) based on questionnaires developed by RATB to see the perception of users to public transport service in Bucharest.

INTRODUCTION

Public sector reform aimed the changing of organization and government structures by redefining the state organizations, the state's role in the economy and relations „market – government, government – bureaucracy, government – citizens, bureaucracy – citizens” (Matei, 2006, p. 141).¹⁸³

New Public Management has emerged¹⁸⁴ as a reaction to the existing bureaucratic model in public administration in the twentieth century and has been criticized as one rigid hierarchical system based on complex decision-making rules and processes on top-down which led in distancing the administration from citizens, and this had to be changed by a flexible form of public management. It was necessary therefore to reform the government's external conditions and internal conditions, as follows: (Matei, 2006, p. 143)¹⁸⁵

1. From policy to management;
2. From pyramid administrative systems to „chester” administrative systems;
3. From the planned and hierarchical implementation of decisions to a dichotomy between core activities and operational services adopted;
4. From the administration process oriented to an administration oriented on results (performance indicators, assessments, increasing quality);
5. From collective provision of public services or social services to the flexible provision of some individualized services;
6. From „spending” to „reduce costs”;
7. From the possession of property to property management.

OECD Public Management Committee (1995) said that the New Public Management develops, within a less centralized public sector, **a performance-oriented culture**, characterized by:

1. FOCUS ON RESULTS, IN TERMS OF EFFICIENCY¹⁸⁶, EFFECTIVENESS¹⁸⁷ AND QUALITY OF SERVICES¹⁸⁸;

Quality in public administration is a commitment and a challenge, it consists in providing efficient public services. „Quality is measured by the absence of errors, omissions, defects, complaint and misunderstandings when they turn to entrepreneurship and creativity of public administration officials, placing the citizens and consumers of public services in the center of government activities”¹⁸⁹. So, our country has placed public sector modernization and its improved quality on the list of priorities of the reform program. Administrative simplification was influenced primarily by the objective of improving administrative regulations in terms of cost-effectiveness and services provided to citizens by creating a government open to citizens,

¹⁸³ Matei L (2006) „Public management” second edition revised and added, Ed Economică, Bucharest, p. 141.

¹⁸⁴ It has emerged in Great Britain in the early 80s, in the same time when Margaret Thatcher took his office as prime minister.

¹⁸⁵ Matei L (2006) „Public management” second edition revised and added, Ed Economică, Bucharest, p. 143.

¹⁸⁶ Efficiency is the ratio between the obtained result and the employed means (the ratio between input and output).

¹⁸⁷ Efficacy is the ratio between the obtained result and the objective that must be achieved. This concept involves, first, to define in advance a goal, and second, measuring (or at least estimate) the obtained result.

¹⁸⁸ Quality means the provision of services as required by the citizen.

¹⁸⁹ Matei L (2006) „Public management”, Ed Economică, Bucharest, p. 198.

to support a conducive climate for economic development and promote the development of its human capital.

Strengthening administrative capacity in terms of management quality, timeliness and evaluation of services is considered a key element in improving the efficiency of public services.

Public services reform has its roots in a concept that government performance is somewhere between the desired and acceptable level which requires the government to move towards performance, in this sense, „the movements towards performance (efficiency, effectiveness and quality) in the management of public activities require organizations' development to continuously adapt for meeting public needs”.¹⁹⁰

2. Replacing centralized structures, strongly hierarchical with decentralized environments, where decisions on resource allocation and delivery of public services are taken closer to the actual time of public benefit and communication with the citizen – client is valued;
3. Flexibility of exploring alternatives to public service delivery, in terms of an effective policy of outcomes;
4. **Focus on efficiency in service delivery by public service**, by setting targets for productivity and create competitive environment among the various organizations involved in providing public service activities;
5. Strengthening strategic capacities for successfully guiding the state's development and adapting to new competitive environment.

NMP is therefore equivalent to the concept of re-organizing the public sector¹⁹¹ or the reinvention of government. Reorganization is one of management philosophies aimed in fact to increase efficiency, effectiveness and competitive abilities of public organizations. It requires changes in public sector structures, in the organizational culture and management systems. In addition, it implies orientation of public benefits to the customer, to mission, increase quality and participative management.

What is performance and how it is measured?

Performance is difficult to define, is a „suitcase word” or „sponge word” which may have at least three meanings or connotations: a success, the result of an act or action itself (...). The word „performance” is bearer of an ideology of progress and effort to do always better.

¹⁹⁰ Ibidem p. 191.

¹⁹¹ Public sector reform includes six features:

1. Productivity: how can governments produce more services with less money;
2. Exiting the market: How can governments to use market-specific incentives to offset the shortcomings of bureaucratic theory;
3. Orientation to work: How can governments to relate better with people, to increase the degree of meeting the needs of the latter;
4. Decentralization: How can governments develop more effective programs by transferring the responsibilities to the public actors in territory;
5. Policies – action programs: How can governments improve their performance in development of public policies;
6. Accountability for results: How can governments demonstrate their ability to deliver what they promised.

Performance means continuous improvement of service parameters provided both in terms of effectiveness and efficiency, but also the needs and expectations of citizens. Idea of performance means achieving a high standard of service, reform or improve methods and procedures used, as the involvement of beneficiaries, staff and higher hierarchical levels.

Performance can be assessed by reference to the standards set nationally and applied to all providers of a service or local standards, used only by the local government concerned.

The concept of „performance” is located at the intersection of three concepts: a) the implementation of guidelines followed by the organization with its own policy instruments, b) focus on target – groups – „clients”, users and other actors beneficiaries of services provided by organization, c) the use of organization’s resources effectively to achieve the desired results”¹⁹²

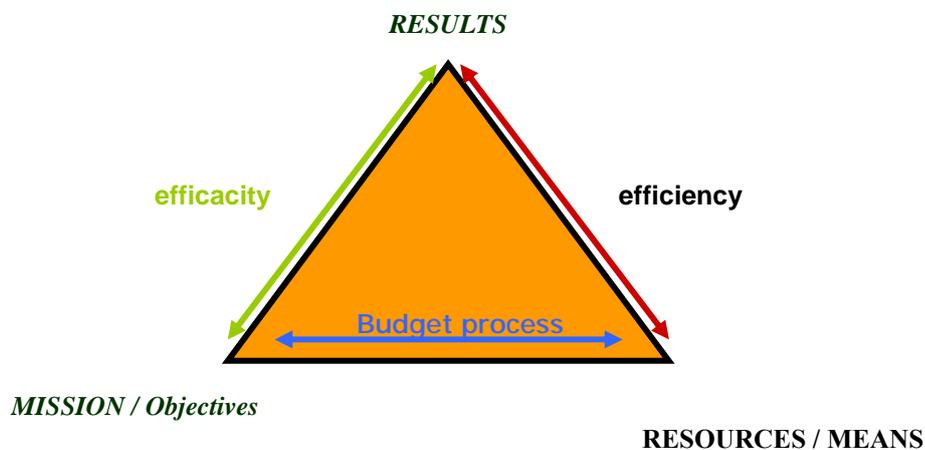


Figure 1. The performance triangle

Assess the performance of public services is based on the following elements:

- correct identification of customer needs¹⁹³,
- determining the objectives and programs related to the identified needs¹⁹⁴,
- achieving a benefits’ quality closer to citizens’ needs
- ensuring the best productivity and lower the price of services.

Public service performance is measured using various *indicators*, feedback, causing decisions concerning the improvement of organization’s performance or its design with new parameters

¹⁹² See Matei L. (2006) „Public management”, Ed Economică, Bucharest, pp. 191-193.

¹⁹³ Cetină, I. (2006) „The services’ marketing. Theory and applications. Ed Uranus, Bucharest „Consumer expectations are determined by many factors among which stands out in importance: communications protocols (consumers are more receptive to the views of friends, relatives, colleagues, only advertising done through media), personal requirements (depending on the personality of the consumer, his education, personal habits, etc.) related to past experience of services, external information.”

¹⁹⁴ Simon L.S in the paper „Measuring the Market Impact of Technical Services” (1965) published in the Journal of Marketing Research, February proposed five criteria to measure customer satisfaction levels, namely: „the extent to participate customer needs, the degree of precision in defining the service content, degree of satisfaction of demand for services, the degree of flexibility (promptly) they respond to emergencies, the degree of efficiency in solving service problems” .

The overall objective of performance management is continuous improvement of quality, efficiency and effectiveness by focusing on result and consequences of public services in relation to internal processes.

Monitoring and evaluation are two key steps for measuring and analyzing the obtained results with the expected results. In these processes occurs the transition from the traditional approach based on control to an approach based on collecting data and information to measure performance.

Monitoring and evaluation are linked and interdependent processes.

Monitoring is the „regular collection process and analysis of information in order to base the decision-making by those empowered, ensuring transparency in decision making and providing a basis for future evaluation actions”¹⁹⁵. In preparing evaluations is necessary the use of relevant information collecting from monitoring. For accurate data from monitoring process is necessary a systematic and careful collection of them.

To analyze the performance of public service in relation to the established goals there should be *a set of indicators*.

Indicators may be:

- *Quantitative* – expressed in numerical and percentage terms;
- *Qualitative* – can measure the perceptions, can help in describing behavior.

Setting of clear, concrete and measurable targets and results / effects helps establish some easily measured performance indicators. In determining the indicators, it should be consider *the clarity* and *the univocal* of links between indicators and the purpose, objectives and results pursued. Also, when determining the system of indicators *the specificity of indicators selected* should be considered (they must match the purpose for which they were developed).

The main characteristics of indicators can be summarized as:

1. *Measurability* – indicators should be expressed in a form that can be measured. Even if the indicators are qualitative, they have to be developed in a measurable way;
2. *Validity/Availability* – they must be available either in relation to the purposes they measured or compared with the time available to achieve certain objectives;
3. *Realism* – indicators should be established in a realistic way, in conjunction with the formulation of the objectives. You shouldn't set targets complex, vague, expressed in a metaphorical way for they can become unmeasured;
4. *Plan your time* – same as each objective or result, each indicator should have a planning time period, duration;
5. *Clarity* – indicators should be clearly defined, their interpretation should be simple, with the ability to show trends of evolution (ascending, descending, constant);
6. *Reliability/ Precision* – measurement indicators, the data used, all must be reliable.

¹⁹⁵ Iorga E, Ercuş L, Moraru, A. (2009), „The management of public services at local level: issues and solutions”, Institute for Public Policy, p. 21.

A novelty in public services domain is *the Government Decision no. 961/2009 on approving Guide – framework for development of minimum standards of quality and minimum standards of cost for decentralized public services (M. Of. 596 of August 28, 2009 (M. Of. 596/2009).*

The service supplied / provided shall meet, at user level, performance indicators set out in the Rules of Organization and Functioning (ROF) of that service. Public service Regulations, including performance indicators, are developed at the level of local government authorities, based on regulation – framework and are approved by the decisions of local councils (HCL), county councils, intercommunity development associations or, where appropriate, of General Council of Bucharest Municipality. Local government must establish and approve the performance indicators only after they have been submitted, in advance, of public debate.

Under delegated management, quality and efficiency of service provided / rendered and compliance of performance indicators established in the contracts will be the responsibility of local government. It is imperative to ensure achievement of the quality – a better cost for the service rendered during the analyzed period. Penalty for failure performance indicators by operators should be provided in service regulation, annexed to the decision to release the administration or to the management-delegating contract, as appropriate.

The performance of local public transport in Bucharest

Local public transport is governed by Law no. 92 of April 10, 2007 on local public transport services, published in the Gazette of no 262 of April 19, 2007 in which stipulates that „local government is responsible for ensuring local public transport by local public transport operators of passengers which are companies holding licenses or autonomous administration with transport and execution for vehicle licenses”.

Local public transport¹⁹⁶ is based on the following principles:¹⁹⁷

- compliance of rights and interests of passengers,
- ensure the safe movement and comfort,
- environmental protection,
- sustainable development,
- equal treatment and without discrimination to all users,
- quality services in terms of affordable tariff for passengers,
- effective management of publicly owned property and monetary funds.

RATB is the main public passenger¹⁹⁸ transport company in Bucharest and Ilfov county.

Surface transport in Bucharest is the responsibility of Autonomous Administration of Transportation Bucharest (RATB) and includes an extensive system of buses, trolley buses

¹⁹⁶ Makes part of local public passenger transport, *transport of persons who meet the following conditions*: is done on the administrative territorial radius of a city or of a common, is run on routes and with pre-established traffic programs, and the passengers are loaded and unloaded in fixed stops and charge a transportation fee, collected by the carrier.

¹⁹⁷ Dincă, D. (2008), „Public services and local development”, Ed Lumina Lex, Bucharest, p. 114.

¹⁹⁸ Law no. 92 of April 10, 2007 on local public transport services, published in the Gazette of no 262 of April 19, 2007 „local government is responsible for ensuring local public transport by local public transport operators of passengers which are companies holding licenses or autonomous administration with transport and execution for vehicle licenses”.

and trams. RATB network is among the densest in Europe, on the fourth place in terms of size of the continent and carrying 2.26 million passengers daily on 116 bus lines, 20 trolleybus lines and 26 tram lines.

Making local public transport service must provide: *increased quality of service and comfort of local public transport users by regularly races*; access to local public transport and protection of disadvantaged social categories; informing traveling public; performance of local public transport people by regularly scheduled flights in safety and comfort conditions; matching the transport capacity with the existing passengers transport flows and continuity of service of local public transport persons by regular flights.

RATB conducted in 1999 a survey¹⁹⁹ among passengers traveling during peak hours (most people who were traveling often) and among those who occasionally circulated to know *the level of user satisfaction with the quality of public transport provided by RATB*.

Thus, an opinion questionnaire was developed containing 50 *indicators grouped into 12 major categories*, which facilitated the analysis and processing responses. Given that in 1999, the Romanian legislation on local public transport there was no established indicators, they were selected from a total of 100 indicators used to determine the quality of public transport by public transport companies from Europe. Choosing the 50 indicators was made in an appropriate way with the specific conditions of Bucharest.

The indicators were:

1. The area covered by the RATB network²⁰⁰;
2. Schedule
 - a. The operating hours;
 - b. The frequency of public transport;
3. Facilities
 - a. Easiness of access to RATB stations;
 - b. Easiness of movement in the area of RATB stations;
 - c. Access in vehicles;
 - d. Easiness of movement inside the vehicle;
 - e. Density of ticket and subscriptions points;
 - f. Program of ticket and subscriptions points sales,
 - g. Quality of tickets, subscriptions, their sale and numbering machines;
4. Information
 - a. Information that we can get on about the RATB movement means;

¹⁹⁹ The sample was as follows: 491 men – 45,0%, 600 women – 55,0% total 1091 people.

Age group: up to 29 years – 474 (43,4%), 30 -59 years 481 (44,1%), over 60 years 136 (12,5%), total 1091.

²⁰⁰ Public transport network means all building and facilities – roads, tram lines, parking lots, filling stations, stations for current maintenance and troubleshooting, repair shops, stations for public transport, garages, stations dispatch – which ensure safety transport and movement of the passengers.

Network transport of passengers, which follows the designed network of streets of the city, is characterized by length, density and configuration.

- b. How to obtain information;
 - c. Information in the event of a disturbance;
5. Journey
 - a. Necessary time to reach from home (service) to the embarkation station;
 - b. Time of ticket purchase / subscription;
 - c. Waiting time in stations;
 - d. Time spent in changing means of transport;
 - e. The actual travel time via public transport;
 - f. Compliance schedule means of transport;
 - g. How to handle suggestions and complaints;
6. RATB staff behaviour
 - a. Drivers behaviour;
 - b. Ticket controllers behaviour;
 - c. RATB staff dealing with public relations;
7. The current diversity of subscriptions
 - a. The absence to a single, common subscription RATB - Subway
 - b. Discount prices, free for pensioners, students, handicapped, revolutionary veterans, etc.
8. Comfort in stations
 - a. Protection against climatic factors;
 - b. Clean stations;
 - c. Brightness in stations;
 - d. The congestion in stations,
 - e. Design furniture of stations,
 - f. Other factors disturbed.
9. Comfort during the journey
 - a. Start / stop,
 - b. Comfort during the journey,
 - c. The quality and air temperature,
 - d. Protection against climatic factors,
 - e. Clean RATB vehicles,
 - f. Brightness RATB vehicles,
 - g. The congestion in RATB vehicles,
 - h. Sound ambiance,

- i. Furniture design,
 - j. Other factors disturbed.
- 10. Accident prevention
 - a. Presence/ visibility support bars,
 - b. Remove risk factors/preventive management,
- 11. Environmental pollution,
 - a. Emissions of gaseous pollutants,
 - b. Dust and litter,
 - c. Unpleasant odors,
 - d. Residues.
- 12. Tariff level
 - a. The ticket price for travel,
 - b. The price of subscription.

The survey results were as follows:

1. As regards *the area covered by the RATB network* most passengers are satisfied taking into account that the density of surface public transport network in Bucharest is about 80 %.
2. Regarding *the timetable*, passengers were satisfied and very satisfied with the program running at a rate of 61%, others were unhappy that the program is not respected. Many young people wanted introduction of lines during the night, at least from Friday to Sunday. Also, during the conduct of this survey has found that the residents of Bucharest wanted for some special events running program to be more flexible. Looking to the frequency of public transport means, there was discontent caused by a drastic reduction in the frequency means at the end of the first transmission peak of the day, and also in the frequency on Saturdays and Sundays.
3. Considering *the facilities*, the passengers were satisfied of accessibility to public transport stations (61,5%) and in terms of easiness of movement in the RATB stations area (57,1%). Regarding the access in vehicles, a fairly large percentage of passengers were unhappy with this issue (26,9% dissatisfied and 31,2% very dissatisfied). Still here, it was the question of the possibility of people with disabilities to have access to public transport by making additional facilities means. About the density of the points of sale of tickets and subscriptions, most were unhappy (at a rate of 54,%). Regarding ticket and subscriptions sales program at a rate of 43,8% of respondents were satisfied. Regarding the quality of tickets, subscriptions to their sale and numbering machines, in a word existing ticket system at that time, was not an issue that generate dissatisfaction among travelers (58% satisfied).
4. Regarding *information*, most were dissatisfied (30,5%), followed by the number of those undecided (30,3%) on the information they could obtain on the circulation of RATB means. Thus, it was the question of development by RATB of a traveler information system performance.
5. In *the journey* case, at a rate of 45,6% of respondents were satisfied about the necessary time needed to get from home (service) to the embarkation station ant the

same in terms of time of ticket / subscription purchase (rate of 66,1% in category „satisfied” and „very satisfied”). With regard to waiting time in stations, most were dissatisfied and very dissatisfied with the rate of 43,7%, but in fact the same happened when asked about the time spent to change vehicles, the rate of those satisfied was 31,6% and of those very satisfied was 3,1%). When asked about the compliance schedule of vehicles, most passengers were dissatisfied (40%).

6. At the category relating to the **RATB staff behavior** (drivers, ticket controllers, RATB staff dealing with public relations) respondents were:
 - a. Happy of driver behavior (54,1% satisfied, 22% dissatisfied),
 - b. Unhappy with the behavior of ticket controllers (38,1% dissatisfied, 35,8% satisfied),
 - c. Satisfied with the approach from ticket sellers (64,6% satisfied , 17,2% dissatisfied).
7. At the **current diversity category of subscriptions**, those surveyed were dissatisfied (51,7% proportion of passengers dissatisfied and very dissatisfied) that does not exist at that time a joint subscription RATB – Subway.
8. Regarding **the comfort in stations**, people questioned were dissatisfied with the fact that stations were not covered to protect against rain and blizzard (41,7%), lack of cleanliness and brightness in stations and because of congestion in the stations. Congestion causes were: failure of succession range of vehicles and low carrying capacity at peak hours.
9. Regarding to **the comfort of the journey**, people were:
 - a. Satisfied and very satisfied at the rate of 43,5% of passenger comfort to start/stop public transport vehicles and 25,6% dissatisfied, this being due to improvements in car park with more modern and silent transport means.
 - b. Dissatisfied and very dissatisfied with the quality and air temperature (at a rate of 45%) and satisfied and very satisfied (at a rate of 22,3%). The main cause was the lack or malfunction on the ventilation system in summer and heating systems during winter.
 - c. Dissatisfied and very dissatisfied with the clean in the RATB vehicles (40,6%) și satisfied and very satisfied (31,6%).
 - d. Dissatisfied and very dissatisfied with the congestion in RATB (48,4%) și satisfied and very satisfied (17,6%).
 - e. satisfied and very satisfied with the sonor ambiance in RATB means (54,6%) and dissatisfied and very dissatisfied (22,8%). All vehicles are equipped with radio-cassette recorders with which passengers can listen to news, music, enjoying such a pleasant sound environment.
10. Regarding the tariff levels, they have been questioned in connection with:
 - a. the ticket price for a trip – happy and very satisfied 39,9% and dissatisfied and very dissatisfied 35%
 - b. price subscriptions – satisfied and very satisfied 44,6% and dissatisfied and very dissatisfied 30,6

Following the results from the analysis of questionnaires, RATB started an improvement plan from the laws in force and continuing to improve the transport network, purchase of new vehicles, new ticket and subscriptions sales points, creating an automated system charge and

the first electronic travel card that enables Bucharest citizens to move both with RATB and subway, improving methods for solving suggestions.

Changes in the legal framework:

▪ In 2001 was amended Government Ordinance no.86/2001 which was the general framework for organization, management, regulation and monitoring of local public transport of passengers, conducted by means of public transport.

▪ In 2007, Law of local public transport services no. 92 of April 10, 2007 appeared published in the Official Gazette of Romania, no. 262 of April 19, 2007, which at the effective date, repealed the Government Ordinance no. 86/2001 on local public transport scheduled services for passengers, published in the Official Gazette of Romania, Part I, no. 544 of September 1, 2001, approved with amendments by Law no. 284/2002. Thus it was created a new regulatory framework which responded to the current needs. In 2006, there were significant changes in the law in the community services of public utilities. During that year it appeared the following acts: Law no. 51/2006 of public utility community services published in Gazette no. 254 of March 21, 2006 (it was amended in 2008 by Government Emergency Ordinance no. 13/2008), Law of power supply public service no. 325/2006, published in Official Gazette Romania no. 651 of July 27, 2006, the Law of water supply service and canalization no. 241/2006, published in the Official Gazette no. 563 of June 29, 2006, the Law of public lighting service no. 230/2006 published in the Official Gazette no. 517 of June 15, 2006 and the Law of sanitation service of settlements no. 101/2006, published in the Official Gazette of Romania no. 393/2006.

▪ Also in 2007 have been set performance indicators for the conduct of local public transport by Order no. 972 of October 3, 2007 approving the Regulation framework for making local public transport and the specification framework of local public transport services. They are:

1. flights, routes that the operator has suspended or delayed performance of the carriage to the timetable,
2. number of routes that the operator has not made local public passenger transport for more than 24 hours,
3. number of passengers affected by the situations above,
4. total number of vehicles daily used compared to the number necessary to achieve the timetable,
5. number of passengers complaints on the quality of transport, including:
 - number of justified complaints,
 - number of complaints resolved,
 - number of complaints to which passengers have not received answers in the legal deadlines;
6. number of vehicles certified Euro 3 or Euro 4 reported to the total number of vehicles required to achieve the timetable,
7. age of vehicles and facilities for passenger comfort;
8. paid compensation by carriers authorized non-compliance of environmental quality in the conduct of transport;
9. number of violations found and punished by authorized personnel for failure the laws;
10. number of traffic accidents occurring in the fault of their own staff or of the carrier / authorized carrier.

Improvements made by RATB from 2001 to present

In 2001 in the trolleybus depots were the following types of vehicles: DAC 217 E and DAC 317 E in a number of 38 vehicles and 1 vehicle respective, DAC 212 ECS (4 vehicles), DAC 117 EA (67 vehicles), DAC 112 E (2 vehicles), DAC 312 E (2 vehicles), SAURER (22 vehicles), ASTRA- IKARUS 415T in a number of 142 vehicles.

Equipped buses were 1285 in number. These were: DAC 112 UMD (471 vehicles); IKARUS 260 (177 vehicles); DAF 220 SB (241 buses); DAC 117UD (1 vehicle) ; IK 4 (1 vehicle); ROCAR 70UL (5 buses); ROCAR 412U (334 buses) and SAVIEM (55 buses).

Also, in 2001 RATB had entered in possession of LPG system installations for reducing pollution (liquefied petroleum gas).

In 2002 it was put in use the first line of light rail service in the country on the route 41 tram. This work was part of a vast program to rehabilitate 110 km of tram lines in the southwest of the city, through a co financing provided by the General Council of Bucharest, Bucharest City Hall and the European Investment Bank. Also during this project tram line 32 has been modernized in 2003 and in 2004 was continued rehabilitation and modernization of tram lines 35 and 12 and held the auction to complete the project for introducing a new ticketing system for public transport. In 2005 they were made and put into operation the first-floor tram cars partially lowered in the middle, and in 2007 was made the first low-floor tram cars thereby being facilitated an easier access for handicapped people.

Automatic Charge System

By implementing the Automatic Charge System, RATB makes available to urban public transport users first electronic travel card through it is adopting a modern way of purchasing travel documents, their payment and validation.

The card is based on contactless technology (without touching cards), and its dimensions are similar to those to a bank card. It is not transferable because on its surface is engraved, at the purchase moment, holder's personal data, confirmed by the identity document.

At the first purchasing card, the passenger is not charged a fee for software support itself, but just paying the travel value of title required to be loaded on the card.

Basically, this CARD is the medium in which, according to the travel needs of passengers, the wanted travel title can be charged. All these operations are performed using specialized electronic devices, secured against fraud.

Through this system was considered the integration of public transport services in Bucharest, thereby providing a flexible tariff offers to meet current demands of the traveling public

First, the integration was achieved in the two major public transport operators, RATB and Metrorex, in the future being expected the integration of other 6 potential operators.

In 2006, the first batch of 400 Mercedes buses of the total of 500 modern buses purchased during 2006 – 2007 period came into operation. That year began implementing a new public transport ticketing system, a system based on contact less card technology, which will replace gradually the cardboard subscriptions and paper tickets. This system was given to use in 2007 and is an Automatic Charge System document.

In 2007 the new system was put into service and urban public transport users are able to use first card that allows the transport of passengers both in RATB and METROREX networks.

Given the complexity of the whole system in an effort to help accommodate passengers with it, RATB opted for a gradual implementation.

In the first stage, the system allows the loading card both to RATB subscriptions and combinations of subscriptions offer RATB + METROREX. In addition, in parallel with subscriptions, RATB made available to the traveling public a modern and flexible payment option for travel through electronic Wallet.

In a later phase, tariff offer will extend and travel cards will have the possibility to charge, in addition to the above titles, other travel titles from RATB offer.

In Metrorex stations validation is done through electronic validators located close to those of Metrorex. They are marked with stickers „ACTIVE Card”.

To perform the validation card you must touch the center of validator, under the display and marked with a black circlet. Proper validation is confirmed by a short beep, the green led lighting and by the display of message „nice trip” on validator display.



Multiple card is usable only in RATB network, designed especially for casual travelers, especially for those non-resident in Bucharest. It can be purchased, for a fee, from the sales units from RATB network. The titles available for loading are: Subscription 1 day and the equivalent of minimum 2/ maximum 10 passengers (EXPRES, urban). Multiple card is not rechargeable and the support value is paid at each procurement.



In 2007 also were places in service 100 trolleybuses CITELIS T

In 2008 was put into service a batch of 400 MERCEDES CITARO buses from the total of 500 that were purchased in 2008-2009 period, buses equipped with EURO 4 engine, with air conditioning in the passengers' saloon, with LCD monitor to inform passengers and with video surveillance system.



We must say that for a better understanding of user satisfaction with the quality of public transport provided by RATB, it review annually the questionnaire posted on RATB website www.ratb.ro and in which citizens can answer anytime. (*see Annex no 1 with questionnaires and its results in years*).

Also, on RATB site they can send e-mails with various suggestions and complaints, these emails being taken over by Public Relation department and passed forward to solve or citizens can call the phone listed in the Contact section.

Contact

REGIA AUTONOMA DE TRANSPORT BUCURESTI

Adresa: B-dul Dinicu Golescu nr.1, sector 1, Bucuresti
 Telefon centrala: **+4021 314 71 30**
 Fax: +4021 311 05 95
 E-mail: info@ratb.ro

INFORMATII TRASEE SI PROGRAM DE CIRCULATIE R. A. T. B.

Telefon : **021.9391**
[informatii trasee](#)

SERVICIUL RELATII PUBLICE

Program: Luni-Vineri 07:00-15:00

Telefon : +4021 307 44 26, +4021 307 44 47, +4021 307 43 58
 Fax : +4021 313 25 02
 E-mail : info@ratb.ro, relatii publice@ratb.ro
[Sesizări](#)

Currently, the area covered by public transport is 1811 sq. km of which 228 in urban areas, vehicle fleet being as 2166 vehicles of which: trams -506, trolley - 306 and buses – 1354; the number of transport lines is 162 of which 26 tram lines, 20 trolley bus lines and 116 bus lines.

Length of transport routes (km double track)

Type of vehicle	Year 2007	Year 2008	Difference (%)
Trams	215	234	+8,84
Trolleys	152	159	+4,60
Buses	1481	1503	+1,48

Average daily number of passengers (million)

Type of vehicle	Year 2007	Year 2008	Difference (%)
Trams	1,2	1.3	+8,33
Trolleys	0,3	0,2	-33,33
Buses	1.3	1,2	-7,69

Stations (number)

Type of vehicle	Year 2007	Year 2008
Trams	578	598
Trolleys	86	89
Buses	1875	1872
Common stations (bus + trolley)	241	257
Total	2780	2816

Number of lines

Type of vehicle	Year 2007	Year 2008	Difference (%)
Trams	23	26	+3
Trolleys	19	20	+1
Buses	119	116	-3
Total	161	162	+1

Number of vehicles certified Euro 3 and Euro 4 reported to the total number of vehicles required to achieve the timetable.

According to data from RATB, vehicles equipped with Euro 3 and Euro 4 are 300 trolleys from a total of 306 trolleys and buses are 890 from a total of 1354.

We see in the presented statistics an increase with 10% in number of motor vehicles of trolleybuses and with 64 % in the number of buses in 2008 compared to 2007.

Structure fleet inventory vehicles – trams (no. veh.)

Type of vehicle	Year 2007	Year 2008	Difference(%)
a. Motor coaches			
V3A - 93	315	315	0.00
V3AMCHPC	17	31	+14.00
V2A	37	23	-14.00
T4R	116	116	0.00
RATHGEBER	10	10	0.00
V2ST	2	2	0.00
V2AT	9	9	0.00
RATHGEBER	6	6	
TOTAL	512	512	0.00

Structure fleet inventory vehicles – trolleys (no. veh.)

Type of vehicle	Year 2007	Year 2008	Difference(%)
ROCAR 512 E	9	3	-6.00
ASTRA 415 T	200	200	0.00
ROCAR 412 EA	2	2	0.00
ROCAR 812 EA	1	1	0.00
ASTRA IRISBUS	84	100	+16.00
TOTAL	296	306	+10.00

Structure fleet inventory vehicles – buses (no. veh.)

Type of vehicle	Year 2007	Year 2008	Difference (%)
DAC 112 UDM	26	2	-24.00
MERCEDES EURO 3	500	500	0.00
MERCEDES EURO 4	-	350	+350.00
IKARUS 260	143	27	-116.00
IVECO - FIAT	40	40	0.00
DAF SB 220	241	195	-46.00
ROCAR UL 70	5	-	-5.00
ROCAR U 412	334	240	-94.00
RENAULT	1	-	-1.00
TOTAL	1290	1354	+64

In 2008, according to the report on access to information of public interest, the total number of requests was 6.934.

Areas of interest were:

- ***information on the organization of the transmission:*** changes in routes, establishment of new lines, changes in location of stations, changes to the timetable etc, information on the use of certain routes,
- ***information on the service obligations of staff in direct contact with the traveling public:*** drivers, ticket inspectors, cashiers;
- ***information on the timetable:*** the frequency of alternation of vehicles, flight departure from the head line;
- ***information on the comfort and safety of the traveling public during the journey;***
- ***information on tariff travel offer and purchasing traveling cards;***
- ***information on the cost of tickets and subscriptions;***
- ***general information on the progress of funded modernization projects,***
- ***information on the procurement of vehicles,***
- ***information about the auctions held for the acquisition of vehicles,***
- ***information about future projects,***
- ***information about upgrading some sections.***

These requests were fully resolved, since none was refused.

Number of requests made in writing was 67, on electronic support 975 and by telephone 5892.

Number of requests made by individuals persons: 6752

Number of requests made by juridical persons: 182

The number of administrative requests: 0- solved favorably : 0- rejected

The number of complaints to court: 0

Total cost of the Public Relations Service: 0

Amounts collected for copy services of public interest information required: 0

References

1. Matei, L., (2006), *Public management*, second edition revised and added, Ed. Economică, Bucharest
2. Cetină, I., (2006), *Services marketing. Theory and applications*, Ed. Uranus, Bucharest
3. Dincă, D., (2008), *Public services and local development*, Ed. Lumina Lex, Bucharest, p. 114
4. Law no. 92 of April 10, 2007 on local public transport services, published in the Gazette of no 262 of April 19, 2007
5. Information provided by RATB by Marketing and Public Relations Service

Annex no. 1

Questionnaire posted on the website www.ratb.ro of February 5, 2009

1. Are you owner of RATB subscription?
 - a. Yes ,
 - b. No
2. Which of the following vehicles do you travel more often?
 - a. Tram
 - b. Trolleybus
 - c. Bus
3. How often do you travel with RATB vehicles?
 - a. Daily,
 - b. Two-three times a week,
 - c. Rarely.
4. How do you appreciate RATB transport network?
 - a. Good,
 - b. Satisfactory,
 - c. Unsatisfactory. Why?
5. How do you appreciate operating hours of public transport provided by RATB?
 - a. Satisfactory,
 - b. Unsatisfactory. Why?
6. How do you appreciate RATB transport titles offer?
 - a. Good,
 - b. Satisfactory,
 - c. Unsatisfactory. Why?
7. How do you appreciate charging system based on card?
 - a. Good,
 - b. Satisfactory,
 - c. Unsatisfactory. Why?
8. How do you appreciate traveler information system?
 - a. Good,
 - b. Satisfactory,
 - c. Unsatisfactory. Why?
9. How do you appreciate the journey with RATB vehicles?
 - a. Good,
 - b. Satisfactory,
 - c. Unsatisfactory. Why?

10. How do you appreciate punctuality with which RATB vehicles arrive in stations?
 - a. Good,
 - b. Satisfactory,
 - c. Unsatisfactory. Why?
11. How do you appreciate the RATB staff behavior towards passengers?
 - a. Good,
 - b. Satisfactory,
 - c. Unsatisfactory. Why?
12. How do you appreciate the RATB staff behavior towards traffic participants?
 - a. Good,
 - b. Satisfactory,
 - c. Unsatisfactory. Why?
13. How do you appreciate traveling comfort with RATB vehicles?
 - a. Good,
 - b. Satisfactory,
 - c. Unsatisfactory. Why?
14. How do you appreciate traveling safety with RATB vehicles?
 - a. Good,
 - b. Satisfactory,
 - c. Unsatisfactory. Why?
15. How do you appreciate quality of the runway on which RATB vehicles travel?
 - a. Good,
 - b. Satisfactory,
 - c. Unsatisfactory. Why?
16. How do you appreciate the degree of environmental pollution produced by RATB vehicles?
 - a. Small
 - b. Medium
 - c. High. Why?

After each question you can send a comment or not because there is a „Send a comment” or „Next question” section.

THE USERS DEGREE OF SATISFACTION FOR THE QUALITY OF PUBLIC TRANSPORT PROVIDED BY RATB

(Answers to the questionnaire posted on website www.ratb.ro made during November 2007 – January 2008)

Table, Synthetic

INDICATORS	Number answers.	APPRECIATION			
		Good	Satisfactory	Good + Satisfactory	Unsatisfactory
ON TOTAL INDICATORS:					
	4587 (100%)	775 17%	1037 23%	1812 40%,	2775 60%
ON EACH INDICATOR:					
1. How do you appreciate <i>charging system based on card?</i>	333	38%	33%	71%	29%
2. How do you appreciate <i>the RATB staff behavior towards the others traffic participants?</i>	328	30%	25%	55%	45%
3. How do you appreciate <i>the degree of environmental pollution</i> produced by RATB vehicles?	309	13%	39%	52%	48%
4. How do you appreciate <i>RATB transport titles offer?</i>	235	29%	19%	48%	52%
5. How do you appreciate <i>traveling safety with RATB vehicles?</i>	422	14%	30%	44%	56%
6. How do you appreciate <i>the RATB staff behavior towards passengers?</i>	370	23%	20%	43%	57%
7. How do you appreciate <i>traveler information system?</i>	231	17%	19%	36%	64%
8. How do you appreciate <i>RATB transport network?</i> (number and lines length, covered area, etc.)	426	12%	23%	35%	65%
9. How do you appreciate <i>operating hours</i> of public transport provided by RATB?	326	11 %	20%	31%	69%
10. How do you appreciate <i>quality of the runway</i> on which RATB vehicles travel?	337	11%	19%	30%	70%
11. How do you appreciate punctuality with which RATB vehicles arrive in stations?	438	10%	17%	27%	73%
12. How do you appreciate <i>traveling comfort</i> with RATB vehicles?	434	12%	15%	27%	73%
13. How do you appreciate <i>the journey</i> with RATB vehicles?	398	10%	17%	27%	73%

THE USERS **DEGREE OF SATISFACTION** FOR THE QUALITY OF PUBLIC TRANSPORT
PROVIDED BY RATB

(Answers to the questionnaire posted on website www.ratb.ro made during February 5 – October 22, 2009)

INDICATORS	Number answers.	APPRECIATION			
		Good	Satisfactory	Good + Satisfactory	Unsatisfactory
ON TOTAL INDICATORS:					
	34 001 100%	8 705 26%	14 878 44%	23 583 70%	10 418 30%
ON EACH INDICATOR:					
1. How do you appreciate <i>charging system based on card?</i>	2 682	63%	24%	87%	13%
2. How do you appreciate <i>the RATB staff behavior towards the others traffic participants?</i>	2 349	42%	42%	84%	16%
3. How do you appreciate <i>RATB transport titles offer?</i>	2 591	32%	51%	83%	17%
4. How do you appreciate <i>the degree of environmental pollution</i> produced by RATB vehicles?	2 371	Small 27%	Medium 55%	Small+ Medium 82%	High 18%
5. How do you appreciate <i>traveling safety with RATB vehicles?</i>	2 339	High 26%	Medium 54%	High+ Medium 80%	Small 20%
6. How do you appreciate <i>the RATB staff behavior towards passengers?</i>	2 479	27%	42%	69%	31%
7. How do you appreciate <i>quality of the runway</i> on which RATB vehicles travel?	2 302	18%	50%	68%	32%
8. How do you appreciate <i>traveler information system?</i>	2 507	26%	42%	68%	32%
9. How do you appreciate <i>RATB transport network?</i> (number and lines length, covered area, etc.)	3 479	17%	50%	67%	33%
10. How do you appreciate <i>traveling comfort</i> with RATB vehicles?	2 437	18%	44%	62%	38%
11. How do you appreciate <i>operating hours</i> of public transport provided by RATB?	3 340	18%	41%	59%	41%
12. How do you appreciate <i>the journey</i> with RATB vehicles?	2 544	13%	41%	54%	46%
13. How do you appreciate <i>punctuality</i> with which RATB vehicles arrive in stations?	2 581	10%	35%	45%	55%

PUBLIC ADMINISTRATION REFORMS IN TRANSITION COUNTRIES: ALBANIA AND ROMANIA BETWEEN THE WEBERIAN MODEL AND THE NEW PUBLIC MANAGEMENT

Denita CEPIKU

University of Rome 'Tor Vergata', Rome
Italy

Cristina MITITELU

University of Rome 'Tor Vergata', Rome
Italy

Abstract

A general trend is easily observable in the literature on public administration reforms in post-communist countries and it consists in analyses of the degree of adoption and success of the New Public Management (NPM) model. Relevant implementation gaps for some levers as well as areas of reform, which cannot be ascribed to the NPM in these countries, are highlighted. The combination of these two features – also common, and not by accident, to other Continental European countries – may well be read as the adoption of a modernisation framework different from the NPM, which some authors have come to recognize as the New Weberianism.

Still, both models are not sufficiently developed and analyzed to provide a framework for evaluating country experiences. Therefore, the paper will: 1) perform a systematic review of the literature on the context and cultural dependency of public management reforms, the debate on the NPM and the New Weberianism, with the aim of defining an analytical theoretical framework suitable for the analysis and comparison of country experiences; 2) undertake an in-depth evaluation of public management reform trends in two countries – Albania and Romania – and contrast these with OECD countries' experience. Public administrations of some European countries, including Albania and Romania, are not NPM "laggards" but have instead chosen to adopt a different modernisation model: i.e. the New Weberianism. Implications for future research and policy-makers are drawn.

1. INTRODUCTION

The NPM theory continues to animate the academic debate and to maintain the momentum in international journals. Indeed, article titles such as “NPM: the cruellest invention of the human spirit” (Lapsley, 2009) or “NPM is dead” (Dunleavy et al, 2005), put into question the real existence of this theory. Hughes (2008, p. 8), in his “What is, or was, NPM”, goes further stating; “it had never been born other than in the eyes of critics”.

The NPM reform movement has in fact far less coherence in theory and practice than in its early days when it was more geographically concentrated and intellectually focused (Kettl, 2006). While the first countries adopting the NPM (New Zealand, Australia, UK and the US) were driven by economic/fiscal stress such as unsustainable public deficits, the followers (European countries) were affected by serious trust crisis along with Maastricht criteria imposing precise debt and deficit ceilings. Finally, international institutions such as the World Bank were the main advocates of the NPM in developing and transition countries, which most serious problems were those of weak administrative capacity and corruption (Manning, 2001).

These differences brought Pollitt and Bouckaert (2004) to make the case for the existence of a specific and distinctive model of reform termed the New Weberian State (NWS). The NWS assembles principles which were at the heart of the Weberian model of PA (reaffirmation of the role of the state and of representative democracy, merit selection and impersonality of civil servants, hierarchy, career advancement, legality and rationality), still close to the European Administrative Space’s main standards of reliability and predictability, openness and transparency, accountability, and efficiency and effectiveness (Drechsler, 2005).

Viewed this way, PAs of European countries, including Albania and Romania, are not NPM “laggards” but may have instead chosen to adopt a different modernisation model: i.e. the New Weberianism.

The article, after a brief systematization of the debate on the NPM and the context and cultural dependency of public management reforms (Hofstede, 1980; Kickert, 2005), analyses two transition countries (Albania and Romania) and contrasts these with OECD countries’ experience. The case studies are analysed with a specific focus on the scope, contents and sequence of reforms as well as on the role of international institutions.

2. PUBLIC ADMINISTRATION REFORM: COMPETING THEORETICAL FRAMEWORKS

A considerable literature has grown up concerning general trends regarding especially the transition from bureaucratic to post-bureaucratic structures and processes. These include the definition of Weberianism and New Weberianism, the NPM and the public governance.

Max Weber in his book, *Economy and Society* (1922) analyzes the benefits of a bureaucratic system of public administration (PA). Weber emphasized control from top to bottom in the form of monocratic hierarchy.

As its literature on bureaucratic organisations emphasises, the characteristics of such a system of organization are: 1) “*A rational-functional organization*” in accordance with a rational

principle of clear definition role in resolving the problems and achieving the objectives; 2) “*A rule-based organization*” where, the authority is rule-driven and distributed in a stable way and is strictly delimited by rules; 3) “*A hierarchical organization*” with several levels of execution and management (Weber, 1922, pp. 956- 963). There is “a permanent organization”, a competitive job offer, a meritocratic organization. Inside this hierarchy, each organizational role is clearly defined.

The literature on Weberian administration reveals some specific characteristics: Reaffirmation of the state as the main facilitator of solutions; reaffirmation of the role of representative democracy (central, regional, and local) as the legitimating elements within the state apparatus; Reaffirmation of the role of administrative law and preservation of the idea of public service (Pollitt and Bouckaert 2004). By emphasizing legality, standardization, and hierarchical command and control systems, Weberianism devised a model of PA which works reasonably well in the social and political context of institutional buildings, democratization and increasing public services (Pierre & Rothstein, 2008, pp. 1-17).

The NPM reform movement has in fact far less coherence in theory and practice than in its early days when it was more geographically concentrated and intellectually focused (Kettl, 2006).

Several authors consider it a market-related model of administrative reform and have identified it with the adoption of an influential set of management techniques drawn from the private sector, a greater service and client orientation and the introduction of market mechanisms and competition in PA (Pollitt and Bouckaert, 2004; Lapsley, 2009).

Most of the definitions - either from academics or from practitioners - are based on a list of the several NPM tools without paying adequate attention to the underlying philosophy or to the interdependency between them. The OECD called this approach an “instrument fixation” and called for a systemic approach to public management reforms (Matheson and Kwon, 2003, p. 13).

Two different positions can be found in the literature with reference to the extent to which NPM reforms fit with the post-communist context²⁰¹. Several authors recommend a careful consideration of context variables before adopting NPM reforms. Schick (1998, p.124) highlights some important preconditions that transition countries should not ignore in designing their modernization strategies, such as a robust market sector and enforced contract management, highly formalised civil service and budget systems, and low levels of corruption. In the author’s words ‘performance is to government what self-actualisation is in Maslow’s hierarchy of needs. Only when basic requirements have been met is the State ripe to manage for results’ (Schick, 2003, p. 5). Polidano (1999) and CLAD (1998) both reject this position, not considering NPM reforms as incompatible with context factors.

The NPM’s most prominent virtue has been its “sharp and clear definition of the problem of modern government and of the solutions that would fix it” (Kettl, 2006, p. 314), but the literature is far more rich with critiques.

²⁰¹ On the other hand, the World Bank, as other donors, showed a keen interest in NPM during 1990, although a word of warning in 2000 recommending a ‘two-pronged strategy’, aimed at building basic institutions as quickly as possible, while preparing the way for broader managerial flexibility (World Bank, 2000b, p. 36; World Bank, 2000a).

The (mostly European) literature on governance and the NPM describe two models of public service that reflect a 'reinvented' form of government which is better managed, and which takes its objectives not from democratic theory but from market economics (Stoker, 1998). While some use the terms interchangeably (for example, Hood, 1991), most of the research makes distinctions between the two. Essentially, governance is a political theory while NPM is an organizational theory (Peters and Pierre, 1998). As Stoker describes it,

„[G]overnance refers to the development of governing styles in which boundaries between and within public and private sectors has become blurred. The essence of governance is its focus on mechanisms that do not rest on recourse to the authority and sanctions of government...Governance for (some) is about the potential for contracting, franchising and new forms of regulation. In short, it is about what (some) refer to as the NPM. However, governance...is more than a new set of managerial tools. It is also about more than achieving greater efficiency in the production of public services.” (Stoker, 1998, pp. 17-18).

Peters and Pierre agree, saying that governance is about process, while NPM is about outcomes (1998, p. 232). Governance is ultimately concerned with creating the conditions for ordered rule and collective action (Stoker, 1998; Peters and Pierre, 1998; Milward and Provan, 2000). As Stoker (1998) notes, the outputs of governance are not different from those of government; it is instead a matter of a difference in processes (1998, p. 17). Governance refers to the development of governing styles in which boundaries between and within public and private sectors has become blurred. The essence of governance, and its most troublesome aspect, according to its critics, is a focus on mechanisms that do not rest on recourse to the authority and sanctions of government (Bekke, et al., 1995; Peters and Pierre, 1998; Stoker, 1998; Rhodes, 1996).

Some authors consider public governance as a new model that enables enrichment instead of an abandonment of the NPM paradigm (Cepiku, 2005; Osborne, 2006). These authors view the governance movement as a response to a perceived absence of a sufficient attention given to the following five areas in the drive to devise and implement NPM over the past several decades (Meneguzzo, Cepiku, 2008, pp.108-110). This includes: “1) An improved understanding of linkages between politics and administration; 2) the need for improved analysis of stakeholder positioning and preferences in formulating public policy and management execution strategy; 3) analysis to better define network relationships among stakeholders internal and external to government; 4) the necessity for addressing potential and real abridgements of public participation rights and basic principles of democracy; 5) finding remedies to address the absence of government responsiveness to citizens in policy formation and execution” (Jones et al., 2004, p. xi).

The currently most discussed 'post-NPM' model is the so-called Neo-Weberian State (NWS), a fortuous metaphor describing a model that co-opts the positive elements of NPM, but on a Weberian foundation (Pollitt and Bouckaert, 2004, pp. 96-102). The concept of the NWS has been used in the literatures of political science, sociology, and PA since at least 1970 (Brown, 1978, p. 367). Following Lynn assumptions, the NWS is state-centered (arguably, by definition). Although the neo-elements refer to citizens needs, an external orientation, and consultation, these seem to be the accomplishments of administrative elites and governments (Lynn, 2008, p. 6).

Dunn and Miller, put forward the convoluted characterization of NPM as a program for governmental transformation initiated in the 1990s and captured by the concept “reinventing government” (2007, p. 345). According to Pollitt and Bouckaert, “there are continuing broad differences between different groups of countries” (2004, p. 102) as far as governance is concerned. Their groups are the “maintainers”, the “modernizers”, and the “marketizers”. But, as underlined, there are really only two groups of great interest in the context of reform: the core, Anglo-American NPM marketizers and the continental European modernizers. The reform model of this latter group is what Pollitt and Bouckaert classify as the NWS (Lynn, 2008, p. 1).

This Neo-Weberian perspective appears to yield the following principles (Pollitt and Bouckaert, 2004, pp. 99–100).

1. **Centrality of the State.** This principle, taken for granted in the USA and other states with superpower status, would ensure that weak states have the political, organizational, and managerial capacity to deal with domestic and international problems surrounding globalization, environmental threats, demographic challenges, and technological innovation.
2. **Reform and Enforcement of Administrative Law.** This principle would guarantee equality for all individuals and groups before the law, protect against arbitrary and unpredictable actions by state agencies, and provide for specialized state scrutiny of state actions.
3. **Preservation of Public Service.** This principle would maintain the idea of a public service with a distinct status, culture, and terms and conditions of employment, characteristics which are often ignored or simply missing in post-socialist EU accession states, where civil servants are poorly paid, poorly educated, and subject to demotion and removal by political authorities.
4. **Representative Democracy.** Is a basis for legitimating, controlling, and maintaining the stability and competence of the public bureaucracy. This principle, central to Weber’s concern with parliamentary control of bureaucracies, separated Western Europe from Russia and then later the Soviet Union, where the bureaucracy was unstable, unreliable, inefficient, and “unbureaucratic” (in Weber’s sense) because it could not maintain its neutrality in the face of external political control.
5. **External Orientation toward Citizens.** This principle represents an outward shift away from internal bureaucratic rules toward the needs, values, and perceived opportunities of citizens. Similar to the “consumer-orientation” of NPM, external orientation is based primarily on a professional culture of quality and service, supplemented in some appropriate cases by market mechanisms.
6. **Supplemental Public Consultation and Direct Citizen Involvement.** This principle, which supplements but does not replace representative democracy, provides for a range of procedures for public consultation as well as direct representation of citizen views. This is similar to citizen and community control under NPM.
7. **Results Orientation.** This principle encourages a greater orientation toward the achievement of results, not only the consistent following of formal procedures. Virtually

identical to that of NPM, a results orientation works *ex post* as well as *ex ante*, incorporating monitoring and evaluation as well as the special type of forecasting undertaken under procedures of Regulatory Impact Assessment (RIA).

8. Management Professionalism. This principle governs the acquisition of professional knowledge and skills by civil servants, so that the ‘bureaucrat’ becomes not simply an expert in the law relevant to his or her sphere of activity, but also a professional manager, oriented to meeting the needs of his or her citizen/users (Pollitt and Bouckaert, 2004, pp. 99–100; Drechsler 2005, p. 6).

The State is still considered to be the main facilitator of solutions to problems such as globalization, technological change, shifting demographics and environmental threat. Despite legitimacy problems, the role and functioning of representative democracy has not suffered any major change. The same holds for the role and perception of the civil service and the principles of the *Rechtstaat* model. The traditional Weberian elements have thus been preserved. However, there are also some new elements. For example, there has been a shift from an internal orientation towards bureaucratic rules to an external orientation towards meeting citizens’ needs and wishes. New devices have been introduced to improve the role of representative democracy, both regarding the early consultation with citizens and representation of citizens’ views (Pollitt, Van Thiel and Homburg, 2007, p. 3).

The Neo Weberian State is characterized by the instrumental rationality of Weberian bureaucracy, to achieve economic and financial gains through ‘downsizing’, tax-reduction programs and privatization programs designed to achieve new efficiencies. (Dunn & Miller, 2007, p. 355).

In the management of resources within government, a modernization of the relevant laws has been implemented to encourage a greater orientation on the achievement of results rather than merely the correct following of procedure. This is expressed in for example a shift in the balance from *ex ante* to *ex post* controls, although the former have certainly not been completely abandoned.

In sum, the NWS has led to some changes, but often changes are mitigated by existing structures and traditions, and are more concerned with democratization and modernization than with ‘entrepreneurial government’ or imitating private sector practices.

However, the expectations are that this “Neo-Weberian” administration would connect the advantages of bureaucratic model to the assets of NPM have hitherto not yet come true. Quite frequently, the “old” methods of steering (legal rules and hierarchy) are being weakened before the “new” managerial ones function (economic incentives and decentralized management). Instead of a well-performing “neo- Weberian” model proclaimed by some scholars local governments are now, in the post-NPM phase, witnessing a re-emergence of the bureaucratic Weberian administration.

Table 1

Characteristics of Weberianism, NPM, Neo-Weberianism & Public Governance

Weberian characteristics	NPM characteristics	Neo-Weberian characteristics	Public Governance characteristics
Dominance of rule of law, focus on rules and policy systems	Inward focus on (private sector) management techniques	External orientation towards citizens needs	Outwards focus and a systematic approach
Central role for the bureaucracy in the policy making and implementation	Input and output control	Central role of professional managers	Process and outcome control
Unitary state	Fragmented state	Unitary state & collaboration	Plural and pluralist state (networks)
Public service ethos	Competition and market place	Public service ethos	Neocorporatist
Representative democracy as the legitimating element	Client empowerment through redress and market mechanisms	Supplementation of democracy with consultation and participation	Participative decision making
Political-administration split within public organizations	Political-administration split within and between (agencification) organizations	Political-administration separation and emphasis on professionalization of the latter	Collaborative relations between politicians and managers

According to Læg Reid (2008), the NPM can only work when there is a strong Weberian ethos and trust relations. Therefore, it is not recommendable to introduce the NPM in low trust countries and Weberianism or neo-Weberian models are suggested.

3. PUBLIC ADMINISTRATION REFORM: THE EXPERIENCE OF TRANSITION COUNTRIES

In post-socialist countries, development has been pursued at the outset of transition mainly through downsizing measures aimed at achieving fiscal stabilization. These measures benefited of the full support from the international community. Many earlier reforms, often under pressure from structural adjustment and fiscal stabilization, were concerned with administrative efficiency and involved retrenchment of civil service. The most basic transformation was moving resources from the State to the private sector, which in 1999 produced more than half of GDP in the central eastern European region (World Bank, 1996, p. 6).

As Mintzberg has wisely noticed with reference to Eastern European countries, the leap between state and private ownership can be made more easily than a more balanced shift to co-operative, non-profit and for-profit organizations. In some of these countries, "State control seems to have given way to equally devastating control by the private sector" (Mintzberg, 1996, p. 76), while in others a slower and more difficult balance has been successfully pursued (Osborne and Kaposvari, 1998).

No parallel efforts were made by international institutions and governments to strengthen PA and management and public support was also weak. In spite of past reform efforts, the

bureaucratic environment, red tape and corruption still restrain economic activity in some post-communist countries, both with regard to foreign investors and local entrepreneurs. In addressing these issues, reforms of public governance and public management, are expected to provide high dividends for economic growth, trade, investment, private initiative and job creation.

As the imperative of PA reform became clearer in middle and late 1990, the NPM had a strong echo in both transition countries and international institutions. Nevertheless, no agreement is found in the literature on the scope, contents and sequence of PA reforms in transition countries, which is too often accepted without further qualification (Jacobs, 2004, p. 321; Schick, 2002).

Regarding the scope of PA reforms, what distinguishes transition from reforms in other countries is the scale and intensity of the systemic change involved. 'Reform must penetrate to the fundamental rules of the game that shape behaviour and guide organizations' (World Bank, 2000b, p. 97). When coming to consider public management and governance reforms, the key issue is whether to go for a wide-ranging, comprehensive set of reforms or whether to limit to a more restrained, incremental programme of change (Polidano, 2001).

Comprehensive reform programmes may be necessary to attract the aid money without which reform cannot proceed in many countries. Thus, the choice of the first option is often connected to PA reforms from the donor-driven perspective, characterized by a narrow macro-economic focus and it is bound up with the question of uncoupling civil service reform from structural adjustment programmes.

However, over-elaborated reform projects, which attempt to address too many objectives simultaneously, can sometimes be beyond the capacity of aid recipients to implement them and are a common cause of project failure (Polidano, 2001).

As far as contents of reform are concerned, there has been a comprehensible reluctance to define a generalised model, preferring instead a contingency approach. Nonetheless, in much of the literature reviewed, the basic assumption is that strategic planning and coordination across PA, stable financial and budgetary management and human resources management are three central areas of PA reform. However, these three levers of change have been considered separately and very often synergies have not been achieved.

The growing attention to public management reforms in recipient countries, along with the evolution of aid destination towards public management and governance reforms draw from similar changes in terms of strategy of international institutions. For example, the World Bank strategy in the central and eastern European region moved from a first stage in the early 1990s initiating more immediate policy reform measures with a strong emphasis on macroeconomic stabilization, liberalization, and privatisation. In mid-1990s, it began to tackle public resource management and aspects of administrative reforms in the context of adjustment operations, along with specific functions of the State, such as tax administration and public finance. The past decade has witnessed a significant expansion in the scale, scope and depth of public sector institutional reform activities in the region, addressing more fundamental institutional reforms in fiscal management, effective linkage of policymaking and budgeting through the introduction of medium-term expenditure frameworks (MTEF), PA and civil service reforms

(World Bank, 2000b, pp. 97-106). However, this evolution has not been informed by learning-oriented evaluation, as the literature seems to suggest (Gasper, 2000).

The conceptual framework underpinning these experiences builds on the simple but powerful idea that development results can be improved by an enhanced management focus on them. It brings together three strands of the development dialogue of recent years: country-led development and partnership, results-based management and development effectiveness (OECD/DAC, 2003).

Most of the transitional countries experienced a PA system based on a hierarchical organisation, known as the “Weberian administration model”. To this, we add “the asymmetric models”, and new “models” and institutional “experiments” for PA in Central and Eastern European countries, like Romania, undergoing reforms since 1990s. (Matei, 2009, p. 32). As a retrospect the aspects of both the Weberian and NPM principles have infused PA reform in post-communist countries, though Weberian standards have greater prominence in the EU accession reform agenda in Romania (Numberg, 1999; Goetz, 2001, pp. 1034-1035).

In conclusion, PA reform in transition countries entails a very broad agenda neither prioritised nor clearly defined in terms of effective implementation, though referring to high-level intentions (Jacobs, 2004).

3.1. Public administration reform in Albania

Albania is a transition country of about three million people in the Balkan Peninsula.

A distinguishing feature of development in Albania during the first years of transition has been its capacity for a quick economic recovery with GDP growth rates ranging from 7% to 11% per cent (during 1993-1996 and again from 1998). For many years, Albania was held up as an example for other transitional countries to follow because of its apparently favourable macroeconomic indicators. Nonetheless, during 1996-1997, Albania was convulsed by the fall of several huge financial pyramid schemes with about two-thirds of the population investing in them and nominal liabilities amounting at almost half of the country's GDP. The sharp decline of 10% of the GDP after the crisis showed the vulnerability of the macroeconomic results so far achieved and highlighted the imperative of institutional and financial sector reform (Jarvis, 1999; Mussari and Cepiku, 2007).

Recent macroeconomic developments have been broadly favourable, with relatively strong economic growth of 6% in 2008 and inflation within the 2-4% target of the Bank of Albania. The general government deficit was kept below 4% of GDP in 2006 and the public debt ratio has decreased. The Albanian economy has been of the few able to weather the crisis in a more robust way than some of its neighbours. This is a result of several things including an accumulation of reforms and a large fiscal stimulus that came from the public investment program of the government at the beginning of 2009 (European Commission, 2008). The challenge for Albania will be to maintain the good monetary policy that has helped it to weather the impact on the banking sector and to take a very conservative fiscal approach going into 2010.

In its National strategy for socio-economic development (Republika e Shqipërisë, 2001, p. 53), the Albanian government recognized PA reform as fundamental for the attainment of the medium-term objectives for growth and poverty reduction. The Government strategy for State

administrative and institutional reform included strengthening the coordination of public policies; improving policy and program implementation; transparency, effectiveness and accountability in resources management; and government-citizens relationships and public accountability. However, reforms were addressed mainly by drafting laws and formally establishing new agencies, revealing donor pressure more than a serious commitment of the Albanian government, still unable of implementing much of the reforms.

The process towards distributed public governance has not been accompanied by a parallel reduction in the number and functions of ministries while public agencies and independent authorities have increased. In this scenario, the protection of the public interest becomes increasingly difficult and priorities move away from the need to create new separate bodies to the challenge of finding the right balance between accountability and autonomy, openness, performance management, as well as strengthening the steering capacity of central ministries (OECD, 2002, pp. 9, 21). Furthermore, steering these central non-ministerial bodies through contract-based public management is beyond reach, which poses crucial whole-of-government issues such as policy coherence and clarity of the administrative organizational system at the central level (Schick, 1998)²⁰².

During communism, local governments (i.e. territorial divisions of central government controlled by the interior Ministry) were characterized by little political autonomy and high levels of social and economic responsibility. In the first years of transition, the focus was mainly on reforms at the central level to build key democratic institutions, as well as on basic economic reforms, while less attention was paid to local government reforms. Sub-national administrations were formally re-created in the early 1990s, with a number of laws approved which govern their competencies and authorities. Much of that legal framework has yet to be implemented and local governments in Albania have very limited administrative and fiscal autonomy (Cepiku, 2002, p. 301; World Bank, 2004a, p. 6).

Sub-national governments include communes (komuna), municipalities (bashki) and regions (qarqe). Communes and municipalities are the lowest level of local PA, while the 12 regions represent the upper level.

The law on the organization and functioning of the local self-government (July 2000) established that the relationship between levels of government will be based on the principle of subsidiarity, which states that public functions should be assigned to the lowest level of government, whenever no compelling reason would suggest otherwise. The decentralization strategy has included reforms in local financing, a package of laws on physical assets and on local public enterprises, aimed at improving allocative efficiency, governance and accountability, the institutional status of local government, the development of managerial capacities at the local level, etc. (Alderman, 2002).

Despite some initial fundamental regulatory and institutional achievements, key challenges that threaten the successful implementation of the government's decentralization strategy are the following:

²⁰² Another issue questioning the use of contractual relationships in PAs of transition countries is their critics in western market economies, focusing on transaction costs and inability to respond to changing and uncertain environments (Osborne and Kaposvari, 1998, p. 375).

- (a) The impact of external assistance in decentralisation reforms²⁰³;
- (b) Weak administrative capacity (both local and central);
- (c) High fragmentation and small size of local units;
- (d) A still undefined role of the regions and the interactions between levels of government, which create conflicting authorities, duplications, and inefficiencies;
- (e) The poor coordination of decentralization implementation;
- (f) The absence of clear service standards and measurement criteria of performance in local service delivery;
- (g) An inadequate degree of revenue autonomy and predictability.

The legal framework on HRM in the Albanian public sector is based on the Labour code and on the law 8549/1999 defining the 'Status of the civil servant' (which addresses only high civil servants). The government followed up that law with considerable subsidiary legislation establishing, among other things, detailed procedures regulating job description and evaluation, recruitment and selection procedures, performance appraisal processes, etc. The DPA is responsible for formulating HRM strategies, while an independent authority (the Civil service commission) monitors the DPA's activity. Strategy implementation is performed by the DPA regarding central administrations and by locally-based HRM departments for the local level. From a quantitative point of view, the civil service has continually been on decline as part of the stabilization efforts of the Albanian government. PA employees amount to 4.6% of the population, compared to the European ratio ranging from 2.5% in Greece to 8% in Hungary. Amongst them, 56% are employees of the education and health sector. Civil servants at ministries are less than 1.5% of total public employees. The qualitative scenario of the civil service suggests that there is room for improvement. A general lack of qualified and professional staff in many fields reduces the capacity of the public service to fulfil fundamental tasks. At the same time, an excess of non-qualified people in the lower levels (such as drivers, cleaners, guards, etc.) is observed. The increase of the salary of public employees has been one of the main concerns of the government. The reform strategy included a first phase addressing only the higher civil service aimed at developing a professional and managerial core. It was done by legally defining their status and by specifically regulating recruitment and progression. A second phase addressed the whole-of-civil service, aimed at introducing a results-orientation and emphasis on effectiveness of public programmes and policies. The main objective behind reform is the establishment of a professional and sustainable civil service, mainly through stability and security for civil servants and staff professionalism (Republic of Albania, 2004, p. 67). In conclusion, capacity to implement HRM reforms has been weak and political interferences have been a threat for their successful implementation.

Effective delivery of public services requires not only well-designed macroeconomic and fiscal policies, but also well functioning institutions such as rules, procedures and organizational arrangements that govern the budget process and shape the incentives that influence the size, allocation and use of budgetary resources. Inheritance from the former soviet regime includes: 'poorly defined allocation of budgetary responsibilities between the

²⁰³ With some exemptions, donors currently negotiate their assistance programs and maintain their consultation process essentially with line ministries, without considering sub-national governments and communities. The natural outcome of the current unsatisfactory consultation approach has been a lack of sufficient knowledge of local conditions and a biased suspicion of local administrations, which tend to hinder the decentralization implementation process (World Bank, 2004a).

Ministry of Finance, line ministries and other budgetary institutions; the existence of numerous extrabudgetary and special funds; separation of decision-making on capital investment programs and operational budgets; weak accounting and reporting standards; poor linkages between budgets and results; and no tradition of multiyear financial planning' (Allen, 1999, p. 100).

During most of the 1990s, government efforts focused on maintaining aggregate fiscal discipline, and less on establishing institutional arrangements to bring a more strategic focus to budgetary processes. Some baselines were defined by the EU as minimum standards of performance in four areas of budgeting and financial management – public expenditure management, financial control, public procurement and external audit (Allen, 1999, p. 96). In 2000, the introduction of a MTEF (now called Medium-Term Budget Program, MTBP), operating on a three-year rolling cycle was an important first step towards a more strategic and policy-focused budget process. The government has made the MTBP the centrepiece of its strategy to prioritise expenditures and to strengthen the linkages between policy objectives, budget planning and execution. One of the 'quick wins' currently being implemented as part of the World Bank PA reform loan is the design, development and implementation of a straightforward budget execution control and reporting system. The pilot for this system is being implemented in the Tirana regional treasury, which alone is responsible for more than 50% of central government expenditures. The system will also facilitate cash-flow forecasting, since it tracks revenues as well as expenditures. If successful, this system will gradually be introduced in the other regional treasuries, representing a dramatic improvement in the accounting capabilities of the Ministry of Finance.

Summing up, macroeconomic stabilization pursued in Albania at the outset of transition, mainly through the support of international institutions, achieved substantial results in terms of GDP growth, employment and inflation. However, as the 1997 crisis made clear, it was more a recovery than a sustainable process of development. PA reform was neglected, bringing about a weak governance system and widespread corruption. This called for a thorough public management reform, which drivers came from international institutions operating in Albania. Regarding strategy and sequencing of reforms, they included:

Enhancing performance in sectors in which government will continue to be the only or the main supplier (public order, health, social protection, labour market, environmental protection, public transports, etc.).

Assuming a more regulatory role at the medium and longer term in the sectors of telecommunications, energy, water supply, insurances, television broadcasting, etc.

Strengthening the administration's stability and increasing the performance of PAs and civil servants remain central areas of concern (Republic of Albania, 2004, p. 5). However, the current implementation of PA reforms continues to focus on mechanical and formal alterations of the structure of the civil service rather than procedural operations and effectiveness and a change in behaviour within the civil service and its citizens-orientation. The Albanian PA continues to be characterized by rigid hierarchies and a custodial attitude, which government-led reforms have not yet begun to address.

Although the level of official development assistance is relatively high, at about 5% of Albanian GDP, only a core set of international institutions and foreign governments have contributed to public management modernization initiatives in Albania. Problems of coordination are exacerbated because of several donors involved in the same field, during the same period. What emerges quite clearly is that donors have paid increasing attention to governance issues since the 1997 crisis.

3.2. Public administration reform in Romania

In the years following the 1989 revolution, the reform of PA in Romania lacked a coherent vision regarding its content, the direction toward which it was headed and concrete implementation tools. The administrative environment was not extremely motivating mainly due to the existing organizational culture, a lack of experience on the behalf of administrative institutions with the reform of public management, the lack of a strategic vision, influence of politics, and the legacy of a centralized administration system. The path of reforms has not been a smooth ride for Romania (Hintea, 2006, p. 3).

As outlined in a recent report published by the World Bank (2007), after two decades of reform with disastrous performance, Romania has made remarkable progress on stabilization over the last four years.

The deepest GDP fall among Central and Eastern Europe was felt during 1993-96 when GDP went down by 30% knocking the first transitional shock resulting in macroeconomic imbalances. After the failed stabilization plan of 1997, Romania went through a second deep transitional recession with the GDP declining by over 12 per cent during three consecutive years. The 1997 stabilization program failed its primary objectives resulting in aggressive PA reform as the primary agenda of the Romanian Government (OECD, 2001-03, pp. 8-10; Mihai, 2005, p. 1). In its strategy and policies of pre accession, the Romanian government recognized PA reform as fundamental for the attainment of the long-run stable and sustainable economic and social structure.

Romania is a country with a population of 21million inhabitants. The PA in Romania consists of 110426 civil servant positions with an effective employment of 87.97% of the total, where 15.14% and 39.90% positions are at State and local levels, respectively and the rest 44.96% catering to Territorial Civil service positions (Management Report, National Agency of Civil Servants, 2007). The Romanian PA is structured according to a three-tier system of government: Central, county and local. The state is divided from a territorial standpoint into counties, which are formed by communes, towns and cities (larger towns). The sub-national PA includes communes (Comuna), towns (Oras) and counties (Judet). County councils and Municipal councils are upper level of public administrative structure whereas town councils and commune councils are lower levels with 6 additional district councils of Bucharest (Coman et al., 2001, p. 371).

The transfer of competences from central level to communes, towns and counties, and implicitly, the creation of new forms of organisation and coordination of national and local policies represent the major step undergone by Romania since 1990 in decentralisation of power, authority and decision (Matei, 2009, p. 22).

The process went through four stages. In the first stage (1991-1994), important changes were made in the structure and funding of local authorities, including the introduction of the local taxation system. In the second stage of the reform policy (1998-2000), administrative and financial decentralization became a priority. Based on the new legislation on financing of local public authorities, the share of GDP going to local budgets increased (from 3.6% in 1998 to 6.5% in 2001), but also the share of local expenditure in total public expenditure increase (from 14.4% in 1998 to 26.6% in 2001). In the third stage (2001-2004), the new laws set new rules for certain functions of local authorities, especially from public services or

utilities. The fourth stage (after 2004), started with the design and approval of the Updated Strategy for Accelerating PA Reform “Government Decision no. 699/2004” (Profiroiu, Profiroiu, 2006, pp. 117-118).

The 1991 Romanian Constitution, revised in 2003, institutes the three fundamental principles on which the PA is grounded: decentralization, local autonomy, and the deconcentration of public services “Art. 120” (Profiroiu, 2006). In Romania, territorial administrative decentralization is based on a community of ‘public interests ‘of the citizens belonging to a territorial-administrative unit, ‘recognising the local community and the right to solve its problems’ and technical and financial decentralisation of the public services, namely transferring the services from the ‘center’ to local communities, aimed to meet social needs (Matei, 2009, p. 13).

The strategy reinforces the transfer of power from the central to the local level. In order for local autonomy to be achieved, the PA authorities from communes, cities, and counties adopt a budget and appropriate funds. They can also levy taxes according to the legal provisions. The share of GDP designated to local budgets during 1998-2001 increased from 3.6% to 6.5%, and local public expenditures increased from 14% to 26% (Matei, 2009, p. 24).

The newly adopted strategies in the central PA integrate the following concepts: Transparency, predictability, accountability, adaptability, and effectiveness. A more formal, institutional driven approach to the reform process was also implemented. Specialized governmental structures such as the Central Unit for the Reform of PA (within the Ministry of Administration and Interior), the Superior Council for the Reform of PA, Coordination of Public Policies, and Structural Adjustment), Unit for Public Policy were created (Hintea, 2006, p. 13).

In Romania, one of the problems that hinder the administrative capacity of local PA is fragmentation. This can be addressed by encouraging cooperation among different municipalities and communes in the provision of services.

The concept of administrative capacity is closely intertwined with the decentralization process. Significant steps have been made, but there are still problems. The most important one stems from a lack of vision and coherence over the long run with regard to decentralization in Romania. Several important measures were implemented but without being coordinated. The newly adopted framework built for the first time tries to phase the decentralization process according to the capacity of the local level. It also creates stimulants for the fragmented local level to cooperate with the provision of public services.

In 2006, a new Law on Decentralization has been adopted. Its positive impact is given, mainly, by: The clarification with regard to local revenue resources for the fulfilment of new local tasks; the classification of territorial-administrative units depending on their administrative capacity; the clear delimitation between central, county and local authorities' competences; and its stipulation that the transfer of competences shall be made simultaneously with the transfer of financial resources and instruments, and the new competences shall be exercised only after the necessary financial resources have been given to county and local public authorities. The decentralization process in Romania can be briefed as follows:

There is a considerable gap between the policy framework and its implementation. Theoretically, Romania is already a decentralized state.

The decentralized effects at local level did not manifest in a consistent manner until the present time.

There is genuine lack of bookkeeping and financial accountability at local levels.

The State services lack the visibility concerning the local needs (Profiroiu et al., 2006, p. 6).

In 1998, the new National Strategy for Implementation of the Information Society in Romania was enacted. This Strategy was aimed at building an information core including national databases for citizens, business, property, legislation, statistical information, intellectual property, standards and a better data communication infrastructure. Effective e-governance started in Romania after the implementation of eEurope+2003 Action Plan as part of accession process (www.mcti.ro). The current status and perspectives for electronic government does show: The communications infrastructure is very poor; the number of PCs/capita is very low; few people have Internet access, the majority at low speed, and quite expensive; the government is offering basic electronic services mainly in stage one (posting information); the quality of governmental web-sites is low; local government has a weak presence over the Net; the Information Systems of PA have to be significantly improved (Sandor et.al., 2006). To sum according to Matei, the decentralization process has not been easy, assuming a specific legislation and an adequate organisational structure, on one hand, and procedures for the local autonomy, on the other hand (Matei, 2009, p. 40).

Implementation of the NPM concepts in Romania can be summed at different levels. At the state level, NPM with new concepts of public management and public marketing introduces: 1) Analysis and forecast- within the NPM, the information is obtained by information technology systems and addresses the demand (market surveys), competition, resources and innovations; 2) Planning- will be intensively decentralised and focussed; therefore the state will merely design the institutional framework than play a leading part; 3) Implementation- in order to improve performance, focus on the organizational behaviour and human resources management are needed. 4) control- as an advantage in the NPM terms represents good score in accountability, feed-back and adaption. Adaption will be determined by market mechanisms.

At Human Resource and employee level, the clear advantage stands in the internal motivation due to human resource influence – in comparison with the Romanian system which is based on external motivation – a complicated network of rules and laws.

At organizational level, the decision-making under NPM is economically motivated (market forces and needs) although, theoretically, this should not occur. Nevertheless, this can be a positive aspect in the context offered by the present Romanian system where, in practice, decisions are politically determined instead of being substantiated and formulated by professional public managers. In Romania the NPM distinguishes itself from the bureaucratic, pyramidal hierarchy through its decentralized systems and networks in the field of organizational schemes.

The core aspect of the PA reform, involves the concept of “Civil servant legal Status”. There is a need for an in-depth analysis of the Human Resource mechanisms which have an extremely relevant role in building a new professional civil service system.

The data provided by the National Agency for Public Servants show that in 2004, out of 112,849 public servants, 44.43 percent were working in local PA and among them, only 3.09 percent were new appointees. Out of the vacant positions, only 16.24 percent were debutant positions, which require no experience (www.anfp.ro). There are no data available regarding the educational background of the public servants in management positions and in executive positions. Overall, though, the perception is that the older generation is still in control of the policy-making in PA, while the infusion of young specialists can be traced at the entry-level positions. Another perception is that the new generation of specialists is tempted to learn the old way of doing PA, to 'blend in', rather than stand out and confront the old techniques (Dragoş, Neamţu, 2007, p. 637).

In 2001, the Government Ordinance on establishing and organizing the National Institute for Administration was introduced. These changes were aimed at depoliticizing PA and at ensuring the continuity of the administrative activity. Creation of the National Agency for Civil Servants, which is now the main decisional institution in the field of civil service and civil servants' management. However, the Law of Civil Servants (last modified in February 2007) has gradually given more powers to county and local public authorities in terms of civil servants' management.

The pay system for public servants currently experiences several challenges with negative implications for those who work at the local level (Romanian Agency for Public Servants Reports, www.anfp.ro). There is a constant migration of public servants not only from the public sector toward the private one, but also within PA from the local toward the central level. The most affected by this process are the small communes and municipalities. There are difficulties associated with fighting corruption among public servants. The low level of salaries and the lack of correlation with the public servants' duties and responsibilities very often lead to corruption and unethical practices. This phenomenon is exacerbated by very strict incompatibilities imposed for public servants. They are not able to engage in other types of lucrative activities, with very few exceptions. Corruption increases the negative perception of the society vis-a-vis the PA.

The second aspect related to human resources is training. The building of a civil service body able to promote and support reform is a major task, and cannot be designed without involving universities (Hintea, 2006). The National Institute for PA, established in 2001, is functioning since 2002-03. It offers intensive training for new recruits as well as continuous training for persons who already work in the system. A special initiative, the EDIS programme, was aimed at training the Romanian civil servants to work European Funds (Mihai, 2005, p. 6).

An analysis of a national survey of civil servants revealed some progress in the professionalization of the Romanian Civil service. In particular, an individual's educational credentials, expertise in certain vocations, and professional training played a significant role in salary levels, indicating a move in the direction of an ideal Weberian bureaucracy of 'experts'. The creation of wholly new institutions for managing, training and regulating the civil servant has contributed to this process of professionalization, though problems such as lack of transparency and poor evaluation remain (Lee, 2009, pp. 274-288).

The last points that need to be analyzed are accountability and incorruptibility. Even a code for the civil servants was issued in 2004. What we notice in the case of Romania is a "citizen-

oriented” concept of administration still struggling to defeat the old mentality dating back from the communist times, characterized by a lack of service and administration culture. As a direct result, public confidence in central institutions has been constantly lagging at a very low level.

The integration of Romania in EU in 2007 has determined a significant change in the administrative expenditure amount: i) Strengthening local autonomy through the decentralization and the devolution processes emphasizes clearly the need for improving the performance of the expenditure management at local level; ii) Internal order, flows of communication and transfer, synergy of the governance system assume administrative expenditure that can be determined; iii) The performance of public organizations in managing local governance issues depends directly also on the administrative expenditure level (Matei, 2009).

In the last 10-15 years, some concrete measures have been taken in order to stabilize public expenditure, both of the public sector as well as of the private sector. As for financial policies, in the beginning of the 90s the Law on the state budget was used to draft and implement Local Government Unit’s (LGU) financial policies and included information about the funds allocated to the LGU throughout Romania (Nikolov, 2006, p. 10). The financial decentralization is an important component of the decentralization process with regard to the allocation of the local financial resources. Clearly, the financial decentralization and administrative one are closely correlated. Romania has made significant steps in the process of financial decentralization but “the process of implementing this policy has been confronted with many problems because of the lack of a national strategy for decentralization” (Profiroiu, 2006, pp. 126-128).

In recent years, considerable efforts have been made to either abolish extra-budgetary funds or move them on-budget. Various elements, however, are not yet – or not yet fully – included in the state budget. Expenditures financed by external loans and development aid are outside the state budget. Revenues and expenditures of self-funded public institutions are also outside the state budget, while “own resources” of spending units are excluded from both the state budget and the consolidated budget. Although there has been progress in broadening the scope of the state budget, further efforts are needed to consolidate the various budgets (www.sigmaweb.org, June 2005).

One of the important tools introduced was DPL (Development Policy Loans) program proposed by World Bank for Romania and its focus on public financial management, the social sectors and the financial sector. The DPL program’s public financial management reforms include cross-sectoral measures relating to the Medium Term Expenditure Framework (MTEF), and initial steps on public sector pay reforms (www.worldbank.org.ro). MTEF will introduce more stability, predictability and transparency in public spending. In addition, the proposed program of operations focuses on sectoral reforms in education and health, where, again, the measures seek to improve fiscal management while promoting more efficient service provision and more equitable access.

Despite the huge efforts made by the international bodies, one of the most severe limitations of the donor assistance in Romania are the extensive attention towards policymaking. In this respect, Romania is still ‘donor dependent’. Romania receives substantial external assistance, amounting to 1.64% of GNP in 2002, which is second only to Bulgaria in transitional

economies. This is overwhelmingly provided by the two major donors, the European Union and the World Bank but both contributing to different agendas. Romania benefited from the European Union assistance in PA field since 1992 by assisting Romanian public institutions mainly through funding twinning projects. The World Bank contributed significantly to Romania's development policy agenda, especially in PA structural reforms through the projects like MTEF.

Reforming Public expenditure management has shown substantial results on the economic growth of Romania in the recent past. The Romanian economy experienced an economic boom during 2003-08, a large part of the domestic absorption boom was driven by private investment but the process of Public expenditure needs high attention because of high rate of corruption in the public administrative system. Nevertheless, the intensification of the reform process at the administrative management level leads to the reduction of the level of corruption (Tudorel, 2009, p. 1).

4. DISCUSSION AND CONCLUSIONS

The paper analysed public sector reforms in transition countries, through the case studies of Albania and Romania, with the aim of addressing a relevant literature gap in terms of a widely-accepted model of PA reform agendas in transition countries (Verheijen, 2002; Jacobs, 2004, p. 330). In particular, the experience of these two countries could be compared with the different theoretical models.

Undoubtedly, the specificity of the case studies as context and topic sensitive does not allow for comprehensive generalizations, though providing useful insights for other transition countries. The two case studies bring about interesting results on the extent to which NPM-style reforms fit the context conditions in transition countries and on the potentialities of the New Weberianism as an interpretative model. Both countries have generally started civil service reform before a structural overhaul of the PA. This condition is common to other post-communist countries (Verheijen, 2002).

The reform paths do not resemble the NPM model (with the exception of a strong emphasis on privatization) but, rather, a neo Weberian approach. "A NWS became the requirement without having a completed Weberian state, because it is the only solution for providing a synthesis between legalism and managerialism. [...] A NWS, in which governmental actions are based on the rule of law, in which private enterprises are involved for competing quality in the service delivery, and in which civil society organizations have a full range involvement in public policy making, from decision making to service provision, strengthening of civil sector and its organisations" (Jenei, 2009). Key elements are the emphasis on the professionalization of the public servants, their depoliticisation and transparency.

It is of fundamental relevance to develop a PA modernisation model based on the key characteristics and needs of transition countries and, subsequently, to use this model – instead of the NPM – for interpreting and assessing the results.

PA reforms have two ways to influence development: Downsizing public sector, which frees up resources and provides new opportunities for private actors, and making public sector more responsive, which, although requiring some investments in the beginning, contributes to better public policies and more integrated economic and social development.

The Albanian and Romanian experiences provide evidence that downsizing measures can help achieve fiscal stability in the short term, while prove to be ineffective in setting the conditions for a longer term sustainable development and also give rise to some unexpected problems of their own.

In retrospect, the case studies seem to confirm the position found in the literature which recommends that matters of constitutional governance should be dealt with before matters of administration; that legal frameworks should be in place before dealing with administrative arrangements; that a functioning core civil service is a pre-condition of more distributed public governance arrangements; and that rationalising rules and enforcing compliance should come before starting to reform the rules (OECD/Puma, 2003; OECD, 1995).

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