

Reforming the Civil Service as the Precondition for Public Administration Reform in Croatia*

Antonija Petričušić

Keywords: public administration reform, EU accession, institutional capacity, weak institutions, civil service, reducing public expenditure

Abstract:

Weaknesses in the Croatian public administration pose one of the most important impediments to advancing reforms in the country, which requires a restructuring and modernizing of the public administration in the context of European integration as well as in the perspective of economic recovery and growth. The present article analyses the present state of fulfilment of the administrative criteria for EU membership in Croatia, particularly questioning the fulfilment of European principles of civil service, claiming that reform of this sector is crucial for a modernized, transparent and efficient public administration.

1. Introduction

Administrative capacity is required for implementation of Croatia's commitments undertaken under the Stabilisation and Association Agreement (SAA), which Croatia signed in 2001 and which eventually came into force in February 2005. Among the obstacles identified by the European Commission to Croatia's obligations under the SAA is also weak and inappropriately skilled public administration. The implementation of a comprehensive public administration reform is not only a prerequisite for the European integration process but is also a necessary ground for economic growth and the development of the candidate country. Croatia was asked by the World Bank and International Monetary Fund to reduce its public expenditure in order to fight public debt and fiscal sustainability. It is also expected that the reform of public administration would indirectly encourage inward and foreign direct investment. Among the important structural challenges Croatia is facing, the European Bank for Reconstruction and Development (EBRD) has also included the acceleration of reforms in the public administration and the judiciary. In order to address such challenges, the Croatian authorities should, *inter alia*, strengthen efforts to enhance the transparency and efficiency of, as well as reduce corruption in, the judiciary and public administration, in order to meet EU standards.

* The first draft of this article was presented at the Jean Monnet Conference on Europe's Democratic Challenges—EU Solutions?, 30 June to 1 July 2006, School of International Studies, University of Trento.

The legislative harmonization and sectoral reforms required in the process of EU accession will only bear fruit if there is a strong supporting administrative system for their implementation. Weaknesses in the Croatian public administration were already detected in the pre-accession process as one of the most important impediments to advancing reforms. Concurrently with Europeanization, the citizens' demand for a modernized, efficient, transparent public administration is rising. In this way, the accession process may also assist in overcoming gaps between public institutions and citizens. At the outset, this article will therefore address the reasons why the country requires a restructuring and modernizing of the public administration in the context of European integration. Even though a broader framework of public administration reform would also require an analysis of the ongoing decentralization process, the article will principally focus on reforms undertaken at the state level aimed at institution building, particularly regarding reform of legislation and programs for civil servants.

This article will, in its second section, assess the effects of the European integration process on the public administration reform of the country, by considering the outcomes of the assistance programs in the field of public administration that have been implemented thus far. The examples of other new member states have also demonstrated that it was difficult to accomplish lasting and effective reform of domestic institutions merely through program aid. When aiming at improving institutional capacity of public administration, the EU, as a rule, transfers foreign expertise in the form of training/educational programs and technical assistance (*e.g.*, twinning programs). Therefore, this article will, in the third section, defend the claim that such a democratization strategy is insufficient to ensure significant reforms, taking Croatia as a case study, since such programs encompass, for the time being, too narrow a segment of public servants.

In the third section, aspects of national civil service law and civil service related administrative structures in the country will be examined (*e.g.*, the definition of public service and employment relationships, recruitment criteria, control and competency issues in personnel management, working time, staff appraisal, pay, mobility, training, etc.). Responding to SAA obligations, Croatia established the necessary legislative framework for the required institutional reforms when new laws on the civil service were passed in October 2005, coming into force as of 1 January 2006. However, this constitutes only the first (and not in itself sufficient) step in the serious process of public administration reform. As preservation of the *status quo* impedes employment and preservation of the most competent public employees, the present article will argue that the most crucial changes should be made by

investing in human capital. The article will argue that the Croatian administration therefore requires an independent system of public service appointments and should therefore establish a system for the assessment of individual work performance, as well as set up clear criteria for career development, which so far has not been rewarding. In this section, the article will consequently prove that the insufficient reform of public administration is a consequence of the unwillingness of successive governments to undertake a structural reform of the public administration that would reduce the overall number of public servants.

2. European Integration and Public Administration Reform in Croatia

2.1. EU Conditionality on Public Administration: Four Sets of Criteria

The first requirement posed by the integration process for the state administration was laid out in the 1993 ‘Copenhagen Criteria’, which, *inter alia*, required stability of institutions guaranteeing democracy and the rule of law, as well as the adoption of European Community legislation (the so-called *acquis communautaire*), which implies the need for effective institutions of public administration. In this way, the European Union has identified the weakness of state institutions in Central and Eastern European (CEE) states as one of the key obstacles on the road to accession, prescribing a strengthening of their capacities through institution building as one of the pre-accession criteria. The term ‘institution building’ was introduced in 1997 in the context of enlargement towards Central and Eastern Europe, requiring the enhancement of institutional capacity in order to meet the third Copenhagen criterion focusing on the transposition of the EU’s *acquis communautaire*.¹

In December 1995, the Madrid European Council concluded that the adoption of the *acquis communautaire* would not suffice for membership, reiterating that the adjustment of EU administrative structures is a part of pre-accession conditionality. Consequently, the European Council in Madrid stressed the need for meeting the assumed commitments resulting from EU membership through the implementation of the transposed provisions of the *acquis communautaire*. The second criterion defined at the meeting in Madrid linked the transposition of the *acquis* into national legislation and its implementation to the effectiveness of the administrative and judicial structures of applicant countries. In other words, in order to accede to the EU, applicant countries were asked to strengthen their administrative capacity. Doing so, the EU has established administrative capacity as an essential prerequisite of

¹ Dimitar Bechev and Svetlozar Andreev, “Top-Down vs Bottom-Up Aspects of the EU Institution-Building Strategies in the Western Balkans”, SEESOX Occasional Paper (2005) No.3, 4. See, also, Commission of the European Communities, “Agenda 2000: The Challenge of Enlargement”, Vol.II, COM (97) 2000, 15 July 1997.

membership. One could argue that the establishment of Madrid conditions on pre-accession criteria constituted a basis for establishing the mutual trust required by EU membership, as the functional administrative capacity would allow for the implementation of the *acquis communautaire*. Since then, this requirement has been reiterated in various forms and in stricter terms in consequent EU official documents dealing with the issue of enlargement.²

The third component of the pre-accession administrative criteria relates to an acquisition of the principles that make up the European Administrative Space (EAS).³ The EAS can be described as:

“[C]onstant contact amongst public servants of member states and the Commission, the requirement to develop and implement the *acquis communautaire* at equivalent standards of reliability across the Union, the emergence of a Europe-wide system of administrative justice, and shared basic public administration values and principles”.⁴

Francisco Kardona groups European administration key principles into four categories. The *first* category—the rule of law—is defined in terms of legal certainty and the predictability of administrative actions and decisions. This category refers to the principle of legality as opposing arbitrariness in public decision making and to the need to respect the legitimate expectations of individuals. The *second* principle is openness and transparency, which is aimed at securing sound scrutiny of administrative processes and outcomes and its consistency with pre-established rules. The *third* principle relates to the accountability of public administration to other administrative, legislative or judicial authorities, and is aimed at ensuring compliance with the rule of law. Finally, the *fourth* principle implies efficiency in the use of public resources and effectiveness in accomplishing the policy goals established in legislation and in enforcing legislation.⁵

² For example, the Feira European Council in June 2000 emphasized: “[t]he Progress in negotiations depends on the incorporation by the candidate States of the *acquis* in their national legislation and especially on their capacity to effectively implement and enforce it”. European Council, “Presidency Conclusions Santa Maria de Feira European Council”, 19-20 June 2000, No.200/1/00, available at <http://www.consilium.europa.eu/ueDocs/cms_Data/docs/pressData/en/ec/00200-r1.en0.htm>.

³ A detailed account of administrative law principles in connection with the European Administrative Space can be found in OECD, “European Principles for Public Administration”, *SIGMA Papers* (1998) No.27, available at <<https://www.oecd.org/dataoecd/26/30/36972467.pdf>>. See, also, *id.*, “Preparing Public Administrations for the European Administrative Space”, *SIGMA Papers* (1998) No.23, available at <<https://www.oecd.org/dataoecd/20/56/36953447.pdf>>.

⁴ OECD, “Preparing Public Administrations ...”, *op.cit.* note 3. See, also, Phedon Nicolaides, *Enlargement of the European Union and Effective Implementation of its Rules* (EIPA, Maastricht, 2000).

⁵ Francisco Kardona, “Elements of the Public Administration Integrity System in EU Member States”, SIGMA/OECD Paper, available at <http://www.ipaei.government.bg/articles/Francisko_Kardona.doc>. Compare Anamarija Musa, “Europski upravni prostor: Približavanje nacionalnih uprava” [European Administrative Space: Convergence of National Administrations], 6 *Hrvatska javna uprava, Časopis za teoriju i*

Some principles of common administrative procedure can be also found in primary treaty law⁶ and in rather detailed written sources of secondary law for competition policy, for the control of national subsidies, for the regulation of the Community's own civil service and the rights of defence.⁷ Administrative cooperation between member states has an impact in terms of social intercourse, the development of common methods and approaches and the invention of new instruments. In other words, Community law affects basic principles, the process of opening up careers and working conditions for civil servants in all member states.

Finally, the fourth set of criteria the Croatian administration must adhere to in the pre-accession process and afterwards relates to the case law of the European Court of Justice, *i.e.*, directly applicable regulations or directives having a direct impact on member states' institutional arrangements, processes, common administrative standards and civil service values, which contributes to the creation of a common European Administrative Space. Certain principles of good administration of the EAS were defined and refined through the jurisprudence of national courts and by the jurisprudence of the European Court of Justice (ECJ), which shapes common administrative law principles within the EU, relying on already general administrative law principles, accepted and refined by the national courts of the EU member states and, particularly, by concepts stemming from French administrative law. The interpretation of relevant EC law provisions by the ECJ leads to modifications in the way principles of administrative law are understood within a member state. Francisco Kardona claims this is a “common *acquis* of legal administrative principles developed by the European Court of Justice”.⁸

The above-mentioned four sets of criteria that the candidate counties must adhere to prove that the absence of a formal legal body that would regulate public administration at the level of the Union, as well as the lack of common administrative procedural rules and unique institutional arrangements, does not mean that European supranational administrative law is nonexistent. It exists as a “non-formalised *acquis communautaire*” made up of administrative law principles, even though without formal convention.⁹

praksu javne uprave [Croatian Public Administration, A Journal for Theory and Practice of Public Administration) (2006), 123-154.

⁶ For example, under the EC Treaty, Art.253 provides the duty to give reasons; Art.88(2) provides the right to be heard in relation to the control of state aid; and Art.287 imposes the duty to observe rules of professional secrecy and to respect the confidentiality of information given to European officials by companies as well as by natural persons.

⁷ Jürgen Schwarze, “Judicial Review of European Administrative Procedure”, 68(1) *Law and Contemporary Problems* (2004), 85-106, available at <[<http://www.law.duke.edu/shell/cite.pl?68+Law+&+Contemp.+Probs.+85+\(winter+2004\)>](http://www.law.duke.edu/shell/cite.pl?68+Law+&+Contemp.+Probs.+85+(winter+2004))>.

⁸ Kardona, *op.cit.* note 5, 2.

⁹ OECD, “European Principles ...”, *op.cit.* note 3.

Institution building was given a high priority in several previous enlargement processes (in 1986, when Portugal and Spain joined the EU; and in 1995, when Austria, Finland and Sweden joined the Union) but was particularly strongly emphasised during the latest enlargement process that allowed Central and Eastern European countries to join the EU in 2004. The candidate countries of that time were asked to develop their administrations to reach the level of reliability of the European Administrative Space and to reach an acceptable threshold of shared principles, procedures and administrative structural arrangements. In addition, candidates were asked in the latest enlargement not only to attain a minimum standard of quality and reliability of public administration but also to reach the future average level of quality of public administration of member states.¹⁰

2.2. The Croatian Accession Path and Initial Steps in Public Administration Reform

Public administration reform and restructuring in the Western Balkans, in general, and for Croatia, in particular, is essential in the context of European integration for several obvious reasons. *Firstly*, sufficient administrative capacity is a prerequisite for implementation of the commitments undertaken in the Stabilisation and Association Agreements. *Secondly*, due to the socialist bureaucratic legacy, there is an apparent need in all of the countries of the Western Balkans to reform policy management, increase efficiency and privatize certain public tasks. *Thirdly*, candidate countries and potential candidates are transition countries whose public expenditure had to be reduced in order to improve debt and fiscal sustainability. *Fourthly*, public administrative reform is both an essential prerequisite for and an integral component of the fiscal reforms aimed at bringing about equilibrium in overall government revenues and spending. Reform of the remuneration system for civil servants constitutes an important component of fiscal reform but also sets a ground for an attractive, merit-based civil service. Profound institutional and organizational reforms are required to achieve the latter objective. *Finally*, successful implementation of the *acquis* and its enforcement once the candidate country becomes a member state is worthless without functional horizontal governance structures and systems, such as procedures for administrative actions and mechanisms to ensure that the performance of civil servants is in line with EU standards.¹¹

The EU Council of Ministers established political and economic conditionality for the development of bilateral relations with Croatia as early as 1997. However, EU-Croatia relations intensified only after a change of government in 2000, in spite of the fact that

¹⁰ *Ibid.*, 15. See, also, Jürgen Schwarze (ed.), *Administrative Law under European Influence: On the Convergence of the Administrative Laws of the EU Member States* (Nomos, Baden-Baden, 1996).

¹¹ Compare Phedon, *op.cit.* note 4; and Christian Brünner, “New Public Management: Contemporary Administrative Reforms in Austria”, in Ivan Koprić (ed.), *Modernisation of Croatian Public Administration* (Faculty of Law, University of Zagreb and Konrad Adenauer Stiftung, Zagreb, 2003), 41-52.

integration into the European Union had explicitly been a top priority in the programs of all Croatian governments since the country gained its independence in 1991.¹² In the margins of the Zagreb Summit in November 2000, negotiations for a Stabilisation and Association Agreement with Croatia were opened. Less than a year after that, in October 2001, the SAA was signed. The process of ratification in member states was concluded in September 2004. The SAA eventually entered into force on 1 February 2005, together with Protocol 7 on enlargement.¹³

Croatia submitted an application for EU membership on 21 February 2003. Croatia's aspirations to EU membership were consolidated in June of that year, when the Thessaloniki European Council reiterated its determination to fully and effectively support the European integration of the Western Balkan countries and stated that "the Western Balkans countries will become an integral part of the EU, once they meet the established criteria".¹⁴

After the Commission prepared a positive Opinion on Croatia's application for membership¹⁵ on 14 April 2003, Croatia was awarded candidate status on 18 June 2004. The main findings of the Opinion were that: (1) Croatia is a functioning democracy with stable institutions guaranteeing the rule of law; (2) Croatia could be regarded as a functioning market economy and should be able to cope with competitive pressure and market forces within the Union in the medium term, provided that it continues to implement its reform program to remove remaining weaknesses; and (3) Croatia should be in a position to undertake the other obligations of membership in the medium term, provided that considerable efforts are made to align its legislation with the *acquis* and ensure its implementation and enforcement.

The Commission recommended in the Opinion that negotiations for accession to the EU should be opened in March 2005, provided the country has demonstrated full cooperation with the International Criminal Tribunal for the former Yugoslavia (ICTY). Nevertheless, due to the non-cooperation with the ICTY, the accession negotiations were opened only in

¹² See, for example, Government of Republic of Croatia, "The Program of the Government of the Republic of Croatia for the 2003-2007 Mandate", 23 December 2003, Zagreb, available at <<http://www.vlada.hr/en/preuzimanja/publikacije>>.

¹³ the trade and transport provisions of the SAA have been applied as of 1 January 2002 through the Interim Agreement on Trade and Related Issues between the European Community and the Republic of Croatia, *Official Journal of the European Communities* (14 December 2001) L.330/3, available at <http://trade.ec.europa.eu/doclib/docs/2003/november/tradoc_114092.pdf>, which came into force on 1 March 2002. Protocol 7 extended the concessions that were given to the new candidates bilaterally by the EU25 and thus the SAA became applicable to the enlarged EU.

¹⁴ Thessaloniki European Council, "Thessaloniki Agenda For The Western Balkans: Moving Towards European Integration", Nr.10369/03, Annex A, available at <http://ue.eu.int/ueDocs/cms_Data/docs/pressData/en/gena/76201.pdf>.

¹⁵ Communication from the Commission, "Opinion on Croatia's Application for Membership of the European Union", COM (2004) 257 final, Brussels, 20 April 2004, available at <http://eur-lex.europa.eu/LexUriServ/site/en/com/2004/com2004_0257en01.pdf>.

October 2005. At the beginning of its mandate, the current government announced its intention to join the EU in 2007, together with Romania and Bulgaria, but the postponement of the accession talks made this plan impossible and the government then proclaimed that the country could become an EU member by the end of the decade. Similarly, EU officials and institutions have been declaring that “provided that Croatia addresses the outstanding challenges and develops adequate administrative capacity, negotiations should continue at a sustained pace and should lead, as soon as all the criteria have been met and the negotiations are completed, to a timely accession of Croatia to the European Union”.¹⁶ The Foreign Affairs Committee of the European Parliament decided to directly connect Croatia’s integration with the solution to the EU constitutional crisis and the next elections for the European Parliament and therefore mentioned the year 2009.¹⁷

The Opinion was accompanied by the European Partnership for Croatia,¹⁸ which lists short and medium term priorities for Croatia’s preparations for further integration with the European Union identified in the Opinion and serves as a checklist against which to measure progress. The Council Decision on the Principles, Priorities and Conditions Contained in the European Partnership with Croatia¹⁹ prescribed a necessity for further improvement in public administration performance. Among the short term priorities, the country was asked to take initial steps to ensure the use of transparent procedures for recruitment and promotion and to improve human resource management in all bodies of the public administration in order to ensure the accountability, openness and transparency of the public service. As a medium term priority, the country was obliged to continue the process of institution building directly relevant to the *acquis* and introduce reforms to improve the effectiveness of the public administration generally.

The Stabilisation and Association Council (SA Council) between the European Union and Croatia recently noted that Croatia continues to fulfill the political criteria but that further sustained efforts are required in important areas such as reform of the judicial system, reform of public administration, the fight against corruption and measures to guarantee the freedom of the media. Croatia needs to continue legislative alignment across the board while at the same time strengthening the administrative and judicial structures that are necessary for the

¹⁶ European Parliament, “Committee on Foreign Affairs Report on Croatia’s 2006 Progress Report (2006/2288(INI))”, A6-0092/2007, 29 March 2007, available at <<http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//NONSGML+REPORT+A6-2007-0092+0+DOC+PDF+V0//EN&language=EN>>.

¹⁷ *Ibid.*

¹⁸ Council Decision on the Principles and Conditions in the European Partnership with Croatia, COM(2004) 275 final, 20 April 2004, available at <http://www.mvpei.hr/ei/Download/2004/06/01/part_croat.pdf>.

¹⁹ *Ibid.*

effective enforcement of the *acquis*. The SA Council noted that Croatia needed to take the strategic approach to *acquis* alignment a step forward and to develop, where appropriate, comprehensive strategies, which should include all reforms necessary in terms of legislative alignment and institutional capacity-building in order to implement and comply with the relevant *acquis*.²⁰

Public administration reform in the pre-accession period is not about minor adjustments to existing structures; on the contrary, it requires a comprehensive reform, fully endorsed by the government. Public officials in Croatia were warned by the EU that “sectoral reforms required for EU accession can only succeed, if a number of supporting general systems have been properly set up: policy planning capacities across the sectors, inter-ministerial coordination, government decision-making, civil service regulations and human resources management, adequate budget procedures and overall financial control mechanisms”.²¹

Indeed, strengthening of administrative capacities has been among the priorities laid out in the governmental programs and reform plans of the two last governments. The change of government in 2000 brought several novelties that reformed the organization of the country, mostly in areas related to decentralization.²² First and foremost, revisions of the Constitution constrained the powers of the central government by granting citizens the right to local and regional self-government; the acceptance of the concept of local self-government as a counterbalance to the central government marked the beginning of the decentralization process.²³ Local self-government units, particularly the larger cities, were delegated a considerably larger range of activities, in this way being assured a higher degree of independence with respect to the central government and administration.²⁴ However, the latest Progress Report mentions “limited progress in the decentralization process, which is important for the development of capacities and the clear definition of the responsibilities of local self-government”. The report recalls that the Decentralisation Commission was set up

²⁰ European Council, “Second Meeting of the Stabilisation and Association Council between the European Union and Croatia: Joint Press Release”, 8309/06 (Presse 103), 10 April 2006, available at <http://ue.eu.int/ueDocs/cms_Data/docs/pressData/en/er/89217.pdf>.

²¹ See the comments by Jacques Wunenburger, “Closing Remarks”, in *Public Administration Reform and European Integration in Croatia: Towards a Medium Term Agenda*, papers from a forum organized by the Government of the Republic of Croatia, The World Bank, the Delegation of the European Commission, DFID and SIGMA/OECD, 7 June 2004, Zagreb, 56-58, available at <http://siteresources.worldbank.org/INTCROATIA/Resources/PAR_Booklet_English.pdf>.

²² The Constitution guarantees the right to local and regional self-government to citizens and establishes the structure of local administration under Chapter VI on local and regional self-government. Arts.132-137, “Ustav Republike Hrvatske” [Constitution of the Republic of Croatia], December 1990, *Narodne novine* [Official Gazette] (7 May 2001) No.41/01.

²³ *Ibid.*

²⁴ “Zakona o lokalnoj i područnoj (regionalnoj) samoupravi” [Law on Local and Regional Self-Government], *Narodne novine* [Official Gazette] 33/01.

already in December 2004 “but has not yet established itself as the main body leading the decentralization process. There are still no clear strategic guidelines for the future direction of this process.”²⁵

The former government also pronounced a reform of the civil service and public administration, announcing in its governmental program that the past government’s machinery should have been subjected to critical analysis and to efficiency and economy evaluation.²⁶ During the former government’s tenure, the status of state civil servants was reformed from a former personnel classification (regardless of their position in the state administration) to fit a classification according to job complexity. The changes to the Law on State Civil Servants and Employees²⁷ envisaged the unification of the remuneration system for state civil servants and employees in all state administrative bodies and other state organizations. The law also reformed the remuneration system, prescribing that salary should reflect the job complexity of each civil servant.²⁸ The number of civil servants has started to be reduced, particularly in the ministries of defence and internal affairs, as well as in the state administrative departments.

The current government has also listed public administration reform at the top of its priorities. Its governmental program states that a rapid and complete reform of public administration should be achieved through the consolidation of state institutions, the regulation of relations in the political system with a strengthening of the principle of public accountability and the separation of the political system from the system of public administration.²⁹ The current government’s position regarding the need for reform and modernization of public administration in the context of European integration emerges from a threefold motivation. *First*, as a potential EU member state, Croatia should have sufficient administrative capacity to fulfill obligations undertaken under the Stabilisation and Association Agreement. *Secondly*, public expenditure should be cut in order to achieve borrowing and fiscal sustainability. *Finally*, the current state of affairs in the public administration requires improvement of policy management and its coordination.³⁰

2.3. Public Administration Reform: One Step Forward, Two Steps Back?

²⁵ European Commission, “Croatia 2006 Progress Report”, COM(2006) 649 final, 8 November 2006, available at <http://ec.europa.eu/enlargement/pdf/key_documents/2006/nov/hr_sec_1385_en.pdf>.

²⁶ The Government of the Republic of Croatia, “Program of the Government of the Republic of Croatia for the Period 2000-2004”, 8 February 2000, available at <<http://www.vlada.hr/>>.

²⁷ “Zakon o državnim službenicima i namještenicima” Law on State Civil Servants and Employees, *Narodne novine* [Official Gazette] No.27/01.

²⁸ *Ibid.* “Zakon o plaćama u javnim službama” Law on Salaries in Public Services, *Narodne novine* [Official Gazette] No.27/01.

²⁹ Government of the Republic of Croatia, *op.cit.* note 12.

Modern administrative development is characterized by two influential doctrines: new public management and good governance. The new public management doctrine has been most accepted in the Anglo-Saxon legal systems but also in some of the Central European states (e.g., in Latvia and Estonia). It promotes a managerial approach in the public administration, organizing the state administration in accordance with market principles.³¹ Even though some international organizations (e.g., the World Bank and the International Monetary Fund) have strongly advocated the managerial reform approach, certain unfavorable effects (e.g., muddled lines of political accountability, poor contacts with the public, decreased transparency, corruption, additional expenses, re-strengthening of regulation and neglected citizens' rights) have caused them to start to advocate for the concept of good governance.³² The concept of good governance is widely accepted by all levels of government as well as advocated by Croatian civil society. It promotes openness, participation, responsibility, effectiveness and coherency. The new doctrinal orientation emphasises the role of citizens and civil society, transparency, legitimacy, responsibility, efficiency, human and citizens' rights, the rule of law, better quality of public services, implementation of modern information communication technologies and better human resources management.³³ The doctrine of good governance calls for the strengthening of policy capacity in public administration, claiming that good results can be achieved through cooperation, supplementation and harmonization of citizens and local self-government and/or central government.³⁴

The Croatian public administration consists of the state administration, local and regional self-government and public services. The Law on the Organization and Scope of the Ministries and State Administrative Organizations establishes the structure and tasks of the state administration.³⁵ At the central level, there are thirteen ministries, eight state administrative organizations and four central state offices (one of which is in charge of the public administration system and administrative development). Ministries and state administrative organizations are central bodies of the state administration but offices of the state

³⁰ Compare the speech of State Secretary Marija Pejčinović-Burić, "Opening Speech", in *Public Administration Reform ...*, *op.cit.* note 21, 9-11.

³¹ Michael Barzelay, *The New Public Management: Improving Research and Policy Dialogue* (University of California Press, Berkeley, 2001). See, also, Johan P. Olsen and B. Guy Peters (eds.), *Lessons from Experience; Experiential Learning in Administrative Reforms in Eight Democracies* (Scandinavian University Press, Oslo, 1996).

³² Ivan Koprić, "Priority Areas in Reforming Governance and Public Administration in Croatia", *United Nations Online Network in Public Administration and Finance Paper* (2005), available at <<http://unpan1.un.org/intradoc/groups/public/documents/UN/UNPAN017009.pdf>>.

³³ *Ibid.*, 9.

³⁴ *Ibid.*

³⁵ "Zakon o ustrojstvu i djelokrugu središnjih tijela državne uprave" [Law on the Organization and Scope of the Ministries and State Administrative Organizations], *Narodne novine* [Official Gazette] 75/93, 48/99, 15/00, 127/00, 59/01, 190/03, 199/03, 30/04, 22/05.

administration are also established in the local (regional) self-government units. In addition, for certain tasks, branch offices can be established at county, municipal or city level. At the lower level, the state administrative departments in each county are in charge of the first degree administrative procedures.³⁶

Ivan Koprić suggests that Croatian public administration reform should first and foremost achieve administrative development based on the traditional Weberian model of an organized, well-documented, impartial, ethical, professional and efficient public administration. Only subsequently will it be able to apply modernization-oriented reforms inspired by the doctrines of new public management and of good governance that “aim at result-oriented budgets, creation of autonomous executive agencies and their separation from policy tasks (which are kept within ministries), transition from status personnel relations to contract labour, etc.”³⁷ As an intermediary reform path, Koprić advocates so-called “minimizing reforms”, which try to “narrow the public sphere and to widen the sphere of the private initiative by radical reduction of the public administration”³⁸ and are also oriented towards public administration modernization. It is precisely this type of reform that has been applied in the majority of continental European countries.³⁹

3. EU Assistance to the Public Administration Reform Process

Being aware that functional public administration strengthens democracy, the European Union has mobilized significant resources to help recent EU accession countries to meet the requirements of membership related to public administration reform.⁴⁰ The EU has been the most serious foreign donor supporting administrative capacity building in Croatia under the Community Assistance for Reconstruction, Development and Stabilisation (CARDS) program. This financial instrument is not only a key element in the relationship between the

³⁶ For more information on the Croatian public administration, see Teodor Antić, “Innovation in Public Administration in the Euro-Mediterranean Region: the State of Public Administration in the Republic of Croatia”, *United Nations Online Network in Public Administration and Finance Paper* (2004), available at <<http://www.unpan.org/innovmed/Italydoc.html>>.

³⁷ Koprić, *op.cit.* note 32.

³⁸ *Ibid.*, 2.

³⁹ Compare Christopher Pollitt and Geert Bouckaert, “Evaluating Public Management Reforms: An International Perspective”, in Hellmut Wollmann (ed.), *Evaluation in Public Sector Reforms* (Edward Elgar, Cheltenham, Northampton, 2001), 167-193.

⁴⁰ Compare, for example, the chapters on Latvia and Slovakia at the forum on Public Administration Reform and European Integration in Croatia: Gunta Veismane, “Comparative Perspectives: Civil Service and Organizational Reform in Latvia 1995-2004. Learning by Doing: Lessons from Successes and Failures”, in *Public Administration Reform ...*, *op.cit.* note 21, 27-32; and Miroslav Beblavý, “Comparative Perspectives: Civil Service and Organizational Reform in Slovakia 2000-2004. Rapid Changes under Internal and External Pressure”, in *ibid.*, 33-35.

EU and the Western Balkans but is also the EU's primary institution-building tool for the countries of the region.⁴¹ Dimitar Bechev and Svetlozar Andreev distinguish between "top-down and bottom-up approaches the EU employs in order to boost democratization and administrative capacity in the Western Balkans" through the CARDS program. Top-down strategies imply "institution building at the central level concerning various segments of the executive and the judicial branch", while the bottom-up segment of CARDS deals with the "strengthening of civil society and the structures of local governance".⁴²

Community assistance under the Stabilisation and Association process to the Western Balkan countries is conditional on further progress in satisfying the Copenhagen Criteria and, in particular, progress in meeting the specific priorities of the European Partnership. Failure to respect these general conditions could lead the Council to take appropriate measures.⁴³ In other words, Community assistance is subject to the conditions defined by the Council in its Conclusions of 29 April 1997 and 21-22 June 1999, in particular as regards the recipients' undertaking to carry out democratic, economic and institutional reforms.

Very often, due to administrative incapacity, Croatian institutions were not able to utilize the funds granted by the CARDS program. However, this was not the case with the resources aimed at public administration reform—as the following examples will demonstrate, those were to a great extent utilized since under the CARDS program numerous projects have already been implemented aimed at increasing the public administration's capacity. In accordance with CARDS regulations, a Country Strategy Paper for Croatia, defining the main areas for cooperation for the period 2002-2006, was adopted in December 2001, including a 2002-2004 multi-annual indicative program focusing on democratic stabilization, economic and social development, justice and home affairs, administrative capacity building and environment and natural resources.⁴⁴

The delegation of the European Commission in Zagreb advocates several principles upon which a successful public administration reform strategy should be built. *Firstly*, the

⁴¹ Bechev and Andreev, *op.cit.* note 1, 5.

⁴² *Ibid.*, 4-5.

⁴³ Art.5, Council Regulation (EC) No.2666/2000 of 5 December 2000 on assistance for Albania, Bosnia and Herzegovina, Croatia, the Federal Republic of Yugoslavia and the Former Yugoslav Republic of Macedonia, *Official Journal of the European Communities* (7 December 2000) L 306/1.

⁴⁴ The activities established under the 2002 CARDS national program are based on these five priority areas and are translated in the following main program headings: 'Return of Refugees and Internally Displaced Persons and Civil Society'; 'Trade, Investment Climate Development and Social Cohesion'; 'Modernization of Justice, Policing and Organized Crime and Integrated Border Management'; 'Public Administration Reform, National, Regional and Local Development and Public Finance'; and 'Strategy for EU Environmental Law Approximation, Pilot Waste Management Strategy for Dalmatia, Water Information System (Standardization and Monitoring) and Support to an Environmental NGO Network'. These programs represent a significant broadening of Community support to Croatia and therefore a shift in orientation by comparison with earlier EC assistance and a continuation of the approach taken with the 2001 CARDS program.

delegation considers that public administration reform is a long-term, continuous process of high political importance, since it affects everybody within society. *Secondly*, the programs supported by the Community funds through the delegation in Croatia take into consideration the legal tradition and culture of the country in which public administration reform is conducted. Therefore, reform of the public administration must be in conformity with the legislative and political system of the country.

3.1. CARDS

Substantial assistance provided under the 2001 CARDS project 'Public Administration Reform: Support to the Reform of Civil Service' has been targeted at developing the foundation for public administrative reform through the development of draft legislation for a new Law on the Civil Service, as well as significant secondary legislation supporting the implementation of the Law on the Civil Service. At the institutional level, a specific outcome of this project has been the establishment of the Central State Administrative Office for Public Administration (Središnji državni ured za upravu, SDUU), which is designated to assume the overall responsibility for driving and coordinating public administration reform activities. The SDUU was established in 2004 as the main institutional body responsible for promoting and implementing the public administration reforms. In January 2006, the SDUU began work on a public administration reform strategy. However, the latest progress report indicates there were no proposals submitted to the government for approval, meaning there is still no overall strategic framework for tackling this crucial issue.⁴³ The report also underlines that the administrative and management capacity of institutions in charge of public administration reform in Croatia, particularly the Central State Office for Administration, is not yet sufficient.⁴⁵

The project on Public Administration Reform aimed to contribute to the civil service reform process through the establishment of a continuous training system for civil servants, by establishing a central management and coordination capacity to deal with human resources. Its overall aim was to promote an effective and efficient civil service that can meet the standards and adopt the practices of the European Union. This project aimed to contribute to the efficient implementation of the Stabilisation and Association Agreement by a capable, effective and transparent Croatian public administration, and by assisting Croatian state institutions in the creation, implementation and strengthening of the legal and policy framework in certain specific policy areas supporting the SAA: enhancing administrative capacity among Croatian civil servants; and strengthening inter-institutional and sector-

⁴³ European Commission, *op.cit.* note 25.

specific cooperation mechanisms within Croatian state institutions and with counterpart institutions in the EU member states and candidate countries.

The two-year 2003 CARDS project ‘Support to Public Administration and Civil Service Reform’, started in January 2006, has benefited from financing of EUR 1.7 million.⁴⁶ This EU-funded project is supposed to provide assistance in building up a professional civil service and help adjusting the system of general administrative procedure, which has not been substantially amended for half a century. Apart from the Central State Office for Administration, ministries and other administrative bodies, as well as the Administrative Court, are also included in project activities.

The two major components of this project are a broad communication process with the relevant areas of Croatian society—courts, bar associations, commerce and industry, academia, ministries and other interested parties—and the involvement of political decision makers at the beginning of the process, who can formulate the political will and adopt guidelines for the new system of administrative procedures. One of the project components is the implementation of the new Law on the Civil Service, in force since 1 January 2006.⁴⁷ This is hoped to be achieved through four areas of activities. *Firstly*, the project should assist the SDUU in completing the secondary legislation related to the new Law on the Civil Service. *Subsequently*, four ministries and the SDUU should benefit from a capacity building program that includes a thorough introduction to the practical application of the new legal framework and procedures, as well as internships abroad. *Thirdly*, the project is supposed to analyse the new civil service system, its legal framework and procedures in practice. *Finally*, once the testing phase is finalized and guidelines and manuals on procedures formulated, it is expected that the complete system across the state administration will be implemented.

The overall conclusion of the 2006 Progress Report is that the issue of public administration reform continues to represent a major challenge for Croatia. It will require serious sustained attention from the authorities if Croatia is to eventually enjoy the professional, efficient, accountable, transparent and independent public administration it needs at the central and local levels. Such efforts are also needed to provide an important basis for the successful implementation of the *acquis*.⁴⁸

3.2. Twinning

⁴⁵ *Ibid.*

⁴⁶ A consortium of consultants led by the British Council with the participation of Eurecna (Italy), Helm (Ireland) and the ICON Institute (Germany) is implementing the project. The project team also includes several Croatian experts and advisors from EU member states.

⁴⁷ “Zakon o državnim službenicima” [Law on the Civil Service], *Narodne novine* [Official Gazette] No.92/05.

⁴⁸ European Commission, *op.cit.* note 25.

Recognizing the need to strengthen their administrative and judicial capacity to implement and enforce the *acquis* as one of the main challenges facing the candidate countries, the European Commission, as of 1998, began to use the mechanism of twinning administrations and agencies in order help them with this process. A total of 27 twinning contracts worth EUR 23 million have been contracted and implemented in Croatia. Three twinning contracts under CARDS 2002 have been managed in a decentralized manner by the Croatian Central Finance and Contracting Unit. Eighteen contracts under CARDS 2001, 2002 and 2003 are ongoing, three have been finalized. Preparations for contracting a further six twinning contracts are under way. Six twinning contracts under CARDS 2003 and eight under CARDS 2004 with an overall worth of EUR 11.85 million were launched within the last quarter of 2005.⁴⁹

3.3. *Phare*

Croatia is, as a candidate country, entitled to benefit from one of the pre-accession financial instruments, Phare, which is primarily aimed at institution building and economic and social cohesion.⁵⁰ A programming principle of pre-accession funds is to provide continuity in assistance while at the same time avoiding any overlaps between CARDS and Phare. The 2005 Phare Programme for Croatia also envisaged several institution building activities—for example, setting up an efficient land administration system that will comply with European standards; improving the administrative capacity of the Croatian tax administration; strengthening the operational capacity of the Croatian customs administration; enhancing the administrative and technical efficiency of the Croatian Maritime Administration; and strengthening the strategic management capacity and modernizing the administration of higher education institutions. All of the public administration reform activities financed under Phare are quite specific and tackle narrow segment of public administration, unlike the broader reform projects previously financed through the CARDS and unlike the previous experiences of CEE member states, who used Phare as a principal means for institution building reform in the pre-accession period. Nevertheless, one of the twinning activities foreseen by the Phare program concerns institution building and is expected to be programmed according to needs. This institution building activity is supposed to be initiated

⁴⁹ European Commission, “Croatia 2005 Progress Report”, COM (2005) 561 final, 9 October 2005, available at <http://ec.europa.eu/enlargement/archives/pdf/key_documents/2005/package/sec_1424_final_progress_report_hr_en.pdf>.

⁵⁰ Apart from Phare, Croatia will in 2006 be entitled to benefit from ISPA, aimed at environment and transport infrastructures, and SAPARD, aimed at agricultural and rural development. Croatia also remains eligible for the CARDS Regional Programme in 2005 and 2006. Pre-accession financing will amount to EUR 105 million in 2005 (Phare: EUR 80 million; ISPA: EUR 25 million) and EUR 140 million in 2006 (Phare: EUR 80 million; ISPA: EUR 35 million; SAPARD: EUR 25 million).

as the requirements related to specific, urgent and unforeseen needs identified in the course of the accession negotiation emerge.

It is expected that this ‘emergency-exit’ should: help in the adoption and implementation of the *acquis* in particular areas where assistance is still necessary; strengthen the institutional and operational capacity of public administration bodies in view of their future role in the implementation of the EU *acquis*; develop human resources in the public administration institutions relevant to the implementation of the EU *acquis*; facilitate public administration reform; and develop the institutions involved in the current and future management of EC funds, and in the protection of these funds against fraud, other irregularities and corruption.

3.4. Other International Donors

Apart from the European Commission donations towards public administration reform, several other development partners have been involved in public administration reform parallel to the process of European integration in Croatia: the UK Department for International Development (DFID), SIGMA, the World Bank, USAID and the Swedish and Danish governments.

The USAID democracy program supports democratic institutions focused on improving good governance and civil society with the aim of ensuring accountability and securing broad-based citizen participation. For example, USAID strengthens Croatia’s local governments in cities, towns and municipalities by increasing their capacity to develop and manage budgets, promote economic activity and manage public infrastructure. It is expected that through USAID’s democracy programs Croatia will be able to develop a cadre of capable and transparent local governments ready to assume their new responsibilities and the additional burdens that follow decentralization. Furthermore, USAID’s NGO sector initiatives will have improved their organizational and financial capacity, leaving behind an influential network of NGOs that will be able to function as advocates for further democratic reform.⁵¹

The World Bank study on the Croatian public sector found that it is expensive, fragmented, poorly coordinated and subject to political influence.⁵² Public service reform is one of the main elements of the World Bank Programmatic Adjustment Loan (PAL) facility. PAL was supposed to support the government in the fulfillment of EU accession criteria and successful EU integration, which require intensive structural and institutional reforms. PAL should have enhanced economic growth through: (1) improving the investment climate; and (2) reducing

⁵¹ USAID, Programme on Citizen Participation & Improved Governance 2001-2007, available at <<http://www.usaid.gov/policy/budget/cbj2006/ee/pdf/hr160-0210.pdf>>.

⁵² The World Bank, “Croatia, Country Economic Memorandum—A Strategy for Growth through European Integration”, World Bank Report No.25434-HR, Vol.1: Summary Report, July 2003, 17.

the size and improving the efficiency of the public sector. One of the reforms financed by PAL involved rationalizing and improving the efficiency of the public administration and improving public expenditure management.⁵³

The Ministry of Foreign Affairs of Denmark launched an EU pre-accession program entitled ‘Public Sector Capacity Development’ in July 2005, which contributes to developing the necessary competencies in the country’s public administration. The program is part of a larger reform of the public sector, supported by the EU. The objective is to promote an efficient public administration in Croatia in order to ensure that it can administer the EU rules and regulations and attend to the commitments that follow from EU membership. The focus of this program is on establishing cross-cutting training modules, which both assist direct capacity building in specific public institutions as well as promote greater integration among the institutions. The Danish program is closely coordinated with the European Commission and other partners, who also assist the public reform process in Croatia. A total of DKK 13.5 million has been allocated to the program for 2005-2007.⁵⁴

Swedish development cooperation with Croatia aims to support reforms that contribute to the creation of a well-functioning, transparent and democratic system of public administration, which can facilitate closer ties with the EU. The grant from the Trust Fund set up between the World Bank and the Swedish International Development Cooperation Agency (Sida) is aimed at supporting public administration reform in Croatia, primarily through conducting an in-depth functional review and revisiting organizational structures, governance and functions in ten central state administration bodies and their supporting agencies, as well as five state administration offices in counties. It is hoped that this SEK 8.5 million grant will support a state administration that will have the inner strength and capacity for the preparation and implementation of the EU integration process with all its challenges.⁵⁵

3.5. Regional School of Public Administration

⁵³ The World Bank, “Croatia Programmatic Adjustment Loan Project”, World Bank Program Document, Report No.30293-HR, available at <http://www-wds.worldbank.org/external/default/WDSPContentServer/WDSP/IB/2005/09/02/000012009_20050902084842/Rendered/PDF/302931init0rev0pdf.pdf>.

⁵⁴ Royal Danish Ministry of Foreign Affairs, “Denmark’s Pre-accession Assistance to Croatia 2005-2007. Public Sector Capacity Development”, available at <<http://www.um.dk/en/menu/DevelopmentPolicy/DanishDevelopmentPolicyCountries/TheNeighbourhoodProgramme/Programmes/EUPreparationCroatia/>>.

⁵⁵ The World Bank, “Croatia Gets 1.17 Million U.S. Dollars to Reform Public Administration”, World Bank Press Release, available at <<http://web.worldbank.org/WBSITE/EXTERNAL/COUNTRIES/ECAEXT/0,,contentMDK:20968655~menuPK:258613~pagePK:2865106~piPK:2865128~theSitePK:258599,00.html>>. The World Bank-financed projects that have been completed thus far have been assessed as satisfactory and the overall project portfolio is above the regional average, while fund disbursement rates are high.

The latest European Commission Communication on the Western Balkans dealt with public administration reform in that it proposed the establishment of a new regional School for Higher Education in Public Administration as a measure to help integrate Western Balkan societies progressively into the European mainstream.⁵⁶ The European Union has indeed, in 2006, set up a regional training centre that will promote cooperation among the Western Balkans countries in improving public administration, thus helping them to meet public administration related accession criteria. Representatives of the Western Balkans countries signed a protocol on establishing a Regional School of Public Administration (ReSPA) on 2 May 2006. The idea for the school dates back to a 2003 EU-Western Balkans summit in Thessaloniki.⁵⁷ ReSPA is intended to boost regional cooperation in the field of public administration, strengthen administrative capacity and develop human resources in line with the principles of the European Administrative Space.

It is expected that the school will organize seminars and educational programs for public administration professionals, as well as annual conferences for public administration training and education institutions. It is hoped that the knowledge and experience gained at ReSPA's events will play an important role in improving the performance of the national administrations of the Western Balkans countries. The ultimate goal of ReSPA is, of course, to help the participating countries meet the Copenhagen and Madrid Criteria. Doing so, ReSPA might influence and enhance the rule of law and transparency as well as strengthen the fight against corruption in the countries that are aspiring to become EU members. The European Commission has already earmarked million euros for ReSPA and intends to allocate further million through the CARDS program. A phased approach was adopted for the establishment of ReSPA. In November 2006 the first phase was launched and it is expected to last about two years. During this phase, the European Commission is chairing the Steering committee composed of delegates from the seven countries and entities of the region. In later phase, ReSPA's own institutional and management set-up will be established, whereas in the third phase, from 2010 onward, it is expected that ReSPA develop into a more comprehensive model combining both academic education and professional training. To date, a similar initiative that aims to facilitate cooperation among governments was pursued by the Support for Improvement in Governance and Management (SIGMA) program in Central and Eastern

⁵⁶ Communication from the Commission, "The Western Balkans on the Road to the EU: Consolidating Stability and Raising Prosperity", COM(2006) 27 final, 27 January 2006, available at <http://eur-lex.europa.eu/LexUriServ/site/en/com/2006/com2006_0027en01.pdf>.

⁵⁷ European Council, "EU-Western Balkans Summit - Declaration", available at <http://ec.europa.eu/enlargement/enlargement_process/accesion_process/how_does_a_country_join_the_eu/sap/thessaloniki_summit_en.htm>

European Countries.⁵⁸ This practice includes providing logistical support to the formation of networks of public administration practitioners in Central and Eastern Europe and between these practitioners and their counterparts in other democracies.⁵⁹

4. Building a Professional and Merit-Based Civil Service

Listing priority areas for the reform of public administration in Croatia, Koprić enumerates the following: (1) the rationalization of public administration; (2) the strengthening of institutional capacity; (3) the strengthening of the professionalism and ethical standards and the depoliticization of the administrative service; (4) debureaucratization; (5) orientation towards results, transparency and openness; (6) decentralization; and (7) partial privatization in public administration.⁶⁰

Since the present article claims that the majority of changes in public administration would occur should the most motivated and skilful workforce form the basis of the civil service, the following section will deal with an apparent need to establish a means of attracting and retaining qualified people, particularly in senior managerial positions, which are still politically determined in Croatia. A glimpse of hope that this may be achievable is offered by a new Law on the Civil Service, which was passed in 2006 and became effective as of 1 January 2007. The main criticism that might be directed against this law is that it has left many critical issues to be resolved by implementing legislation, which is required if the law is to have any positive effect and to achieve full and proper implementation. To date, the thirteen implementing regulations that were foreseen have not yet all been adopted.

Good governance also depends on an effective civil service. Patrick Keuleers has enumerated several requirements the civil service should fulfill in order to serve as a prerequisite of good governance. To begin with, it must be adjusted to the level of social and economic development in the country; it must be efficient and effective in the delivery of services; and it must be highly professional and capable of offering the best technical advice to the democratically elected government. In addition, it should be operated according to merit-based principles, combined with culturally sensitive management practices. Subsequently, the civil service must be loyal in the execution of the policies of the acting government, while operating in accordance with the Constitution and the law, at the same time as being strongly

⁵⁸ SIGMA is a joint initiative of the Organization for Economic Co-operation and Development (OECD) and the European Union. It supports public administration reform efforts in countries in transition and is principally financed by the European Union's Phare Programme.

⁵⁹ OECD, "European Principles ...", *op.cit.* note 3.

committed to the public interest. It should then be disciplined and intolerant of unproductive or unethical behaviour, while at the same time its workforce should be honest and devoted to serving the population in an unbiased and impartial manner. The civil service should represent all society, including the members of minority ethnic communities or disadvantaged groups. It should be capable of and willing to develop partnerships with various groups and organizations in civil society. Finally, civil servants must uphold fair and transparent administrative practices and should be accountable to the citizens and their representatives.⁶¹

As part of the criteria to be fulfilled by the civil service system regarding a professionalized civil service and the qualification of its workforce, Keuleers considers that state officials must be willing to hire the best people available at each level, based on a fair and transparent recruitment process and to maintain competitive pay practices that will foster a motivational climate for state employees. In addition, it is essential to ensure strong support in terms of proper training and development at all levels.⁶²

4.1. Costly Wages and Insufficient Salaries

Previously, it had been said that the Croatian public administration was composed of state administration, local self-government and public services in the realms of education, health, welfare, science, etc. The total number of civil servants in the state administration amounts to approximately 52,000, complemented by approximately 10,500 civil servants in all local and regional self-government units.⁶³ Compared to other countries in the region and to new EU member states, Croatia stands out because of the large size and cost of the public administration. The total wage bill of the public administration is almost one-third of all current expenditures, which ranks Croatia at the top of public sector wages expenditures in CEE countries, except Montenegro.⁶⁴ A significant reduction in the overall size of the public

⁶⁰ Koprić, *op.cit.* note 32.

⁶¹ Patrick Keuleers, *Key Issues for Consideration when Assisting Civil Service Personnel Management Reforms in Developing Countries* (UNDP, Bangkok, 2004).

⁶² *Ibid.*

⁶³ Previously, there were five categories of civil servants: (1) state officials who hold elective or purely political posts and whose tenure was subjected to a mandate of a party in power; (2) civil servants who held positions that involve exercise of public functions; (3) state employees who supported and auxiliary services in ministries and state administration organizations; (4) other public employees (teachers, doctors, employees of other public services delivered to the citizens by administrative organizations); and (5) employees of local self-governments and administration. See Antić, *op.cit.* note 36, 7-8. The new Law on Civil Servants has prescribed a new classification of civil servants' positions. Introducing three categories of civil servant, the Law has classified them into civil servants with managerial competences, higher ranked civil servants and lower ranked civil servants. The classification of state employees is still to be prescribed by governmental decree.

⁶⁴ Increasing public debts are generated by the high unemployment rate in the country, which stands at around 15%; general public expenditure is at a level above 50% of GDP, with a significant budget deficit of around 6.5%. World Bank, "Country Assistance Strategy (CAS) for Croatia for the period from July 2004 through June 2008", available at http://www-wds.worldbank.org/external/default/WDSContentServer/WDSP/IB/2004/12/09/000012009_20041209125930/Rendered/PDF/PIN106.pdf.

sector is needed, along with some other reform measures (such as fiscal reform, completion of the privatization process, institutional and structural reform of state and local administration, enhanced policy making and implementation, strengthened budgetary and fiscal discipline, and enhanced continuity in policy development and implementation), in order to set up a framework that will facilitate investment and development in the private sector.

Being aware that the modification of the civil service wage system constitutes an important component of fiscal reform, the government has attempted to prohibit the hiring of additional staff by issuing a Decision on Employment of Civil Servants in the State Administration Bodies and Public Services Financed from the State Budget until the necessary number of civil servants is determined in a decree on the internal structure of the state administration.⁶⁵

Even though some ministries have respected the decision, the number of employees in some state administration bodies is still excessive, while at the same time insufficient in others. The ministries with the most obvious surplus of employees are those of interior and defence. Apart from the numerous employees in the central administration, the large number of employees in the various administrative bodies of units of local self-government also affects the size of public expenditure. In order to solve the problem of costly public administration, it is necessary to encourage the early retirement of older civil servants and to institutionalize the redistribution of human resources among ministries and even among different levels of the state administration.

4.2. Reform of Public Service Remuneration

Keuleers distinguishes between two main approaches to allocating individual employees to a grade in the civil service pay scale: (1) the “personnel-ranking system” or “man-in-rank” system; and (2) the “position system” or “job-ranking” system. In the personnel-ranking system (the so-called “career system”), the salary is only loosely connected to the content of the job. This qualification-based classification of employees allocates rank and pay based principally on the formal characteristics of the individual (educational background and seniority). The second system, the “position system” (or “job-in-rank” system) is a salary system, established on the basis of job evaluations and thus focused on job content rather than the personal characteristics of the job holders.⁶⁶ The Croatian legislative framework for civil service salaries applies the former system of payment related to academic qualifications and length of employment within the administration. The current administrative system classifies

⁶⁵ “Odluka o prijemu službenika i namještenika u tijela državne uprave i javne službe koje se financiraju iz državnog proračuna” [Decision on Employment of Civil Servants in the State Administration Bodies and Public Services Financed from the State Budget], *Narodne novine* [Official Gazette] No.25/00.

⁶⁶ Keuleers, *op.cit.* note 61.

civil servants into categories that correspond to the actual competences of the civil servants. These categories are subdivided into grades representing education levels in the country and echelons with regular pay increments based on seniority. The civil servant's salary consists of the multiplication product of the task complexity coefficient of the workplace in which the person has been placed and the salary calculation bases that are established by collective agreement. This product is increased by 0.5% for each completed year of service.⁶⁷

Already, the previous government had announced that competence criteria should be applied in civil servant employment. During its tenure, the new system of civil servant remuneration and promotion was introduced, but without significant increases of the salaries.⁶⁸ The World Bank and Sida have prepared in 2006 assessments of current practices in public service remuneration. As a result, a new salary system for public service has been designed and a new Law on Public Service Salaries and Employment was drafted.⁶⁹ However, what has not passed until present date is a new remuneration system designed for local government employees. The current government recently passed an implementing measure on salaries in accordance with the new Law on the Civil Service. It is hoped that the governmental decree will link salaries with performance and, in this way, resourcefully tackle the problem of motivation for joining and remaining in the state administration on the part of qualified and motivated people.

4.3. Introducing Professionalism and Eliminating the Politicization of the Civil Service

Despite clear recruitment and promotion provisions, politicization in the civil service still exists, particularly at the level of assistant ministers. Assistant ministers, who in fact carry out the tasks of director-generals, are not civil servants but are still political appointees. Such an arrangement has actually been undermining the continuity and professionalism of the public service for years, as the assistant ministers changes were affected by the electoral changes within the government. Given that appointments to assistant minister are exempt from the strict rules of seniority, these posts were, in certain cases, used to promote outstanding young civil servants or recruits from outside the public administration. The new Law on the Civil Service envisages that the assistant minister position should fall within the civil service positions framework but this provision will become applicable only six months after the next parliamentary elections, which are due in October 2007. In other words, the de-politicization

⁶⁷ Antić, *op.cit.* note 36, 12.

⁶⁸ "Zakon o plaćama u javnim službama" [Law on Salaries in Public Services], *Narodne novine* [Official Gazette] No.27/01.

clauses will only take effect upon the formal assumption of office of the government established after the first parliamentary elections following the entry into force of the new law. The 2006 Progress Report issued by the European Commission has underlined that “[t]his means that civil service in Croatia continues to be somewhat dependent on political affinities. Policy making effectively lies in the hands of political advisors. Even for new vacancies, provision has not been made for immediate de-politicization.”⁷⁰ The professionalization of assistant ministers’ positions should finally, in mid-2008, bring more transparency into career development and reduce the influence of a change in government on the operation of the public administration. The result of such an unattractive state of affairs gives rise to inefficient staff, being formed of the least ambitious and skillful employees. In addition, due to the complicated and even nonexistent procedures for the removal from office of public servants, the unintentional consequence remains firmly anchored.

Graduate recruits to the civil service tend to leave quickly, as soon as they are able to find better paid posts in private sector. The best young professionals are mostly discouraged to remain within the civil service due to a strict seniority principle that restricts career prospects. Another obstacle to the attraction of qualified and motivated recruits lies in the problem discussed above of inadequate financial compensation, as their salaries are linked to the above-mentioned seniority principle, which foresees salary rising in connection with the duration of tenure. This factor, combined with the often great responsibilities and demanding tasks that they are assigned, causes high turnover in the staff of ministries at junior professional level.

Another discouraging element one faces when entering the civil service is a lengthy recruitment process. The Constitution and the Law on the Civil Service call for a public competition to enter the public service. In spite of such a provision, previously the ultimate decision to choose amongst the finalists of the competitive process lay with the minister or a delegate. Until recently, before the new law and a Strategy of Vocational Training and Professional Improvement of Civil Servants were passed, the recruitment process was based mostly on outmoded standards and often failed to produce any results. It is yet to be seen whether the legislative amendments will be able to facilitate employment in the civil service.

The new Law on the Civil Service, like the previous Law on Civil Servants and Public Employees, includes a probationary period and calls for a civil service examination before

⁶⁹ World Bank, “Croatia Gets 1.17 Million U.S. Dollars to Reform Public Administration”, available at <<http://web.worldbank.org/WBSITE/EXTERNAL/COUNTRIES/ECAEXT/0,,contentMDK:20968655~menuPK:258613~pagePK:2865106~piPK:2865128~theSitePK:258599,00.html>>

⁷⁰ European Commission, *op.cit.* note 25.

tenure can be awarded. In practice, the probationary period is underused for training. The assessment tests at the state public administration exam primarily evaluate candidates' knowledge of legal provisions, while additional skills and eventual other expertises (e.g., acquaintance with management, policy analysis and evaluation) are not at all taken into consideration.

The civil service suffers from high staff turnover and a lack of qualified personnel. In order to motivate young people to remain in the civil service, it is necessary to lower the requirements regarding the length of tenure for appointment to lower managerial positions. The experiences of the new member states as well as the practices from the European Administrative Space should be taken into consideration when initiating reform in human resource management.⁷¹

In order to consolidate civil service reform, the government has recently passed a Code of Conduct of Public Officials.⁷² The Code of Conduct was designed in accordance with the civil codes of several other European countries and with the aim of eliminating conflict between personal and public interests, encouraging employees to take care of the state of business records in companies and establishing mechanisms of independent and unannounced control of business operations. The Code defines moral principles for the actions of civil servants, those working in public administration and officials, obliging them to perform their functions in a conscientious, responsible, dedicated and non-mercenary manner. The Code is supposed to become a document accompanying the employment contract of a public servant. More concrete stimulus for a career in the civil service should come in the form of an implementing regulation on the increase of salaries of public servants, which was adopted in May 2007 and became effective as of 1 July 2007.

4.4. Increasing Efficiency by Modernizing General Administrative Procedures

The existing legal administrative system in Croatia is cumbersome and needs simplification. The wide discretionary scope in legislation leads to inefficiency and legal uncertainty and facilitates corruption. Public administration in Croatia is not only costly, it is also less effective than it should be. These inefficiencies arise from imprecise, multi-layered and fragmented organizational structures. Civil servants are often endowed with a complex and bewildering allocation of tasks and responsibilities. It is generally considered among civil servants and administrative law experts that a better quality of administrative services could be achieved by streamlining procedures and reduction of bureaucracy through a modern Law

⁷¹ Compare, for example, Danielle Bossaert and Christoph Demmke, *Civil Services in the Accession States: New Trends and the Impact of the Integration Process* (EIPA, Maastricht, 2003).

⁷² "Etički kodeks državnih službenika" [Code of Conduct of Public Officials], *Narodne novine* [Official Gazette] No. 49/06.

on General Administrative Procedures. It is essential to reform the system of administrative procedures, as the current system of Croatian administrative procedures dates back to 1956, having its roots in the administrative system of the Kingdom of Yugoslavia set up back in 1930.⁷³ Since that time, some amendments were introduced, particularly in 1991 after Croatia declared its independence, but the substance regulated in the Law on General Administrative Procedures remained unchanged.⁷⁴ As a consequence, the Administrative Court is unable to cope with the present workload of administrative decision review. It goes without saying that such administrative legislation is not aligned with current general European standards and that it is necessary to adapt and implement the administrative procedures legislation to common EU standards.⁷⁵

In September 2006, the government adopted a policy paper committing itself to drafting a revised Law on General Administrative Procedure by July 2007. However, besides the existing Law on General Administrative Procedure, there are numerous other special administrative procedures regulated through special legislation that will have to be revised. Since procedural rules ensure that all activities of public authorities are lawful, transparent, predictable, efficient and adequate, they directly influence the citizens and businesses that require state input. Simplification of the public administration and improvement of administrative services should reduce delays in administrative procedures. Increased efficiency achieved through simplified administrative procedures would have implications not only for the increased legitimacy of public administration in the eyes of citizens but also would decrease costs, as the procedures would be less time-consuming. Finally, complicated and time-consuming administrative procedures are among the most important disincentives to foreign investments. Therefore, their removal would boost competitiveness and improve the climate for investment in the country.

5. Conclusions

The lack of European standards in the area of organization and functioning of the state administration does not mean that a candidate country is not obliged to meet a number of principles that are applied in the organization and functioning of the state administration of the member states and the principles applied in the European Administrative Space. Principles such as reliability and predictability, openness and transparency, accountability, rationality

⁷³ Ivan Koprić, "Administrative Procedures on the Territory of Former Yugoslavia", SIGMA/OECD Paper, available at < <http://www.sigmaweb.org/dataoecd/52/20/36366473.pdf> >.

⁷⁴ "Zakon o općem upravnom postupku" [Law on General Administrative Procedure], *Narodne novine* [Official Gazette] 53/91, 103/96.

and efficiency of the state administration must be reflected in the constitution and transposed in the pre-accession period into domestic legislation through administrative legislation (*i.e.*, in civil service law, administrative procedure law, administrative process and judicial review law, etc.).

The efficient implementation of government regulations by state institutions and good governance policy being implemented at all levels of governance are not only key preconditions for the European integration process in Croatia but are also requirements for the economic growth and development of the country. This article, therefore, attempted to underline that a functioning public administration is a pre-accession condition as much as a pre-condition for Croatia's economic development.

The public administration reform has been initiated with the support of the European Commission's funds, primarily through the implementation of two CARDS-funded projects. Lately, Phare funds are also meant to contribute to the reform of certain segments of the public administration. Building administrative capacity has thus been closely linked to the Europeanization process. The adoption of the Law on the Civil Service, which was drafted under the CARDS project, represents a major step forward in the process of establishment of a modern, efficient and transparent public administration system. In spite of the new piece of legislation, it seems, however, that substantial changes have not yet occurred, as the necessary comprehensive legislative framework for institutional reforms remains incomplete in spite of the passing of the new Law on the Civil Service in October 2005. Specifically, for this law to become operational it was necessary to pass thirteen implementing regulations but these have not yet all been passed. Since the Law on the Civil Service also requires substantial government activity in order to become fully operational, it will mean little in and of itself if it is not accompanied by a change in the behaviour of civil servants and their superiors. In order to meet EU standards of public administration, the civil service in Croatia should replace or release the inefficient civil servants and take on board qualified, educated, skillful and motivated people. This article has shown that the reform of human resource management in the public administration should be a primary aim of the state administration reform, as it is this kind of reform that should subsequently allow for other necessary reforms of the public administration to take place.

⁷⁵ Compare, for example, SIGMA, "Balkans Public Administration Reform Assessment: Croatia", 11, available at <<http://www.sigmaweb.org/dataoecd/53/2/36487530.pdf>>.