Administrative convergence and reforms in South-Eastern European States.
Analyses, models and comparative studies

Editors:
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SOUTH-EASTERN EUROPEAN ADMINISTRATIVE STUDIES
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Table of contents

Foreword

The fundamental idea of the current publication emphasizes the characteristics of the processes related to administrative convergence and reform in the South-Eastern European states.

Of course the area under review is quite wide and complex and therefore our approach aims to comprise only a few characteristics.

Encompassing various geo-political aspects, political heritages enhancing that diversity as well as endemic socio-cultural traditions, the public administrations in the South-Eastern European states have faced a definite option for restoring democracy and accomplishing reforms according to the principles and values of the European Administrative Space, in the past two decades.

For the time being other questions emerge and others remain still open. Which is the most adequate model for the administrative reform, which are the most efficient mechanisms and tools triggering its accomplishment and implementation?

Lacking a formalized acquis communautaire on the processes related to administrative reform, their diversity has enhanced and the conditions for so called administrative convergence have multiplied. The research reports achieved and presented in the current publication emphasise the progress in implementing the democratic processes of central and local governance which do not lead however to convergence, being definitely relevant for the processes related to administrative dynamics.

Various political experiences undergone by the states under review in the second half of the 20th century have induced attitudes and behaviours mainly of subordination and loss of identity of the organizations in national public administrations. That situation persisting in the South-Eastern European space creates difficulties and unbalances in the dialogue and cooperation with the public administrations of Western European states. The state itself is weak, determining a lack of finality for the administrative reforms. The processes of administrative convergence have become more complex and complicate as the EU administration is searching a model and it is attempting to define an identity.

The traditional models of administration, based on a hierarchic bureaucracy are overcome and the model of EU administration could not be found by a transfer or enlargement of an administrative model belonging to one or several states.

Therefore, we should acknowledge that the processes related to administrative convergence and reform are profoundly integrated in a complex context, with globalizing valences, benefiting of profound mechanisms, enhancing the interdependence and systemic character of the developments of national public administrations.

The current volume incorporates contributions of South-Eastern European universities (National School of Political Studies and Public Administration – Romania, New Bulgarian University – Bulgaria, University of the Aegean - Greece or University of Rijeka – Croatia, as well as of international organizations – European Public Law Organization – Greece.

In the above briefly described context, the studies reveal both comparative aspects, strategies of administrative reform or significant developments of administrative convergence and

conceptual models aimed to contribute to the debates on EU administrative and organizational future or contemporary developments of EU administrative law.

The reports were achieved in the framework of Jean Monnet project "South-Eastern European developments on the administrative convergence and enlargement of the European Administrative Space in Balkan states" and provide an overview close to the realities on specificity of administrative processes in South-Eastern European states.

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Chapter 1
Research Report 1

GENERAL FRAMEWORK OF ADMINISTRATIVE CONVERGENCE PROVIDED BY THE REFORMS OF NATIONAL PUBLIC ADMINISTRATIONS IN SOUTH EASTERN EUROPEAN STATES

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Introduction

The development of the construction and enlargement of the European Union processes introduces new concepts to the specific terminology. Within a systemic framework, these concepts describe and summon the institutional and normative mechanisms sustained by this generous investigation.

European governance and administration overcome, in an accelerated manner, the obstacle-route between concept and reality; a route specific to the European and national elements –as complex in their entanglement, as to overcome the processes and phenomena which characterize the building of a Unified Europe.

Making now the reference to the European administration, we should note that it can be understood as a system of institutions and structures situated at European level. Such an approach is, at present, restrictive, the European administration describing, in fact, a process that evolves towards a series of values ad standards that are unanimously accepted as European; a process with a philosophy that includes the so called Europeanization of the national administrations.

As such, the European administration will be structured as a system having a mixed architecture, several subsystems – the national administrations and connections that point to the norms of the Communitarian law and to the respect for sovereignty and national traditions and experiences.

The exact coordinates of this process are hard to establish, especially since in the area of public administration, there is no acquis communautaire, so there is no law to transpose in the legal systems of the EU member states (there are few exceptions in the field of the

management of European funds and of public procurement). In this context, the national administrations of the states that want to join the European Union are evaluated under the criteria expressed in the "judicial and administrative capacity to implement the acquis communautaire". This creates serious difficulties since there is more than one national administration in the EU and there is no model or guiding criteria for reforming the national public administrations of the candidate countries.

The Lisbon Treaty brings out new regulations meant to promote and sustain the good governance and European administration, thus underlining the right to good administration, the necessity of the administrative cooperation, strengthening of the administrative capacity for implementing the communitarian law and the respect of the principles of subsidiarity and proportionality in establishing the competencies of the European Union.

In this context, the European Administration obtains a new and clearer content, to the evolution of which we will further focus on.

Several concepts frequently appear in the doctrine: the European Administrative Space, the European convergence located next to the administrative dynamics, "the old" public administration and the new public management, and the Europeanization; analyzing them means comprehending the mechanisms and connections that lead to the evolution of European administration.

The present paper focuses on administrative convergence as an internal process with catalyzing features for the national public administration evolution in the broader context of European integration process. Studies' focus is on the public administrations reforms in the South-East European states as a support for the administrative convergence processes that engage other states.

The general convergence framework is offered by the European Administrative Space (EAS) itself constituted in an informal acquis communautaire that helps monitoring the administrative reforms progresses in the EU member states or acceding ones.

I. Administrative convergence

I.1. General features

"Administrative convergence" is a concept that at first glance is clear, agreed upon and understood; yet convergence towards a common model imply a reduction of the variability and disparities in the administrative agreements (Pollitt, 2002).

Pollitt (2002) argues upon the complexity of this mechanism that makes possible the operationalisation of the EAS, and points out towards the difficulty of introducing similar administrative practices when several durable differences in the public management reform occur. Continuing these ideas, Olsen (2002, 951) discusses two competing, or supplementing, hypotheses: a "global convergence" hypothesis and an "institutional robustness" hypothesis.

These approaches are valid for a general model of convergence; when discussing the European administrative convergence several arguments that derive from the process of creation and enlargement of the European Union may be brought into debate.

Still in the general context, recent developments in public administration have been interpreted by means of two generic models: the "classical" or weberian public administration and the "New Public Management" (NPM) (Matei, 2001, 62-64, 139-153). A favorite diagnosis has been a paradigmatic shift "from Old Public Administration" to "New Public

Management" (Dunleavy and Hood, 1994). Regardless the standards, NPM stands in contrast to the idea of a unique European convergence. It actually suggests that convergence is global, or at least common to several countries. It also assumes an "inevitable shift rather than a temporary fad and that the change represents progress toward a more advanced administration" (Osborne and Gaebler, 1993, 328).

The vision of a global convergence supplements or may compete with the so-called institutional robustness hypothesis[1]. Here the basic assumption is that the two others overestimate the likelihood, extent and speed of convergence, and that Europe and the rest of the world are likely to continue with a variety of administrative models. Furthermore, both models – the classic one and the NPM portray the administration as a tool for an external principal – a branch of government controlled by the legislative and judicial branches, or by shifting external circumstances. In contrast, the robustness hypothesis assumes that the administrative institutions are powerful actors in public policy making and administrative change. Likewise, public administration is a collection of partly autonomous institutions with identities, traditions and dynamics of their own (Matei and Dogaru, 2010).

Global convergence then can follow if administration is a context-free, technical activity with a single best solution, and if the global environment is currently dominant. European convergence can follow if the most important context in the matter is the European one, dominant both within the administration and outside it.

Differently, the institutional robustness appears if context is dominant, and the administration has the same degree of autonomy as other different environments and established arrangements.

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, 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 Lehmkul 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, 12) says "whatever their political economies, whatever their unique cultures and histories the affluent societies become more alike in both social structure and ideology". 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 behavioral 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.

[1] Their promoters are J.G. March and J.P. Olsen, in their papers regarding the institutional rediscovery, the democratic governance or institutional dynamics, published in New York, Free Press, between 1989-1998, and N. Flynn and F. Strehl, in their paper referring to the public sector management in Europe, published in 1996, at Prentice Hall.

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, organizational, procedural and behavioral 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, 1996, Matei, 2010, 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 institutionalism theory claims that organizations 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 and Taylor, 1998, 936-955) use the concepts of the neo-institutionalism, 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, 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 consequentiality 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, 9-12).

The researches show few signs of convergence between national administrative systems (Bulmer and Burch, 1998, Olsen, 2003).

I.2. A typology of convergence

Maor and Jones (1999) synthesize different "varieties of administrative convergence" for EU member states, substantiating an analysis framework for convergence features. It was aimed to facilitate the appropriate understanding of the "puzzles" generated by the pressures of the new Public Management (NPM) and European Union (EU). These pressures seem to push the national administrations towards opposite directions, ignoring this way a possible unique model of public administration.

Still, the above mentioned authors underline the fact that both NPM and the EU sustain firm actions of the governments in order to have administrative reform done, opposing the inertial and even hostile forces of the conservative bureaucrats that are eager to keep their traditional status.

A certain realization of the European administrative systems, from the efficiency and efficacy point of view, seems to be true. But to the question concerning the resemblance between them, the answer is not very simple and can not be framed in a bivalent logic. "With the inspect of NPM the answer must be «more than they used to», but as a trend toward a common administration, «no». With the impact of the EU the answer must be «yes and no», depending on which aspect of an administrative system is being external" (Maor and Jones, 1999, 501).

This second perspective is also being analyzed by Kaeding (2007) when referring to "an assessment of the European Commission's best practices for transposition of EU legislation". Kaeding's study (2007) is based on some European states respondents' opinions – from France, Germany, Sweden, Italy and Greece. "The study finds new evidence for converging tendencies toward the recommended administrative model in the EU. Since 2004, developments in member states show that national coordination model for transposition have been adjusted, coordination mechanism seated, and special processes and procedures in line with the Commission's recommended best practices established" (Kaeding, 2007, 426). Still, the transposition process does not generate an alert rhythm. The data analyzed by the author for the period of 1995-2006 determines exactly the opposite, which leads to even greater aspects after the adoption of Lisbon Strategy.

In a more general context depicted by the analysis of literature, it can come off the existence of three specific types of convergence (Matei and Dogaru, 2010, 3).

- 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;
- 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;

- 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, 203-224).

Interactive convergence relies on mutually reinforcing interaction between EU level pressures and national level interests. *Autonomous convergence* is a quite common type of local re-contextualization. Adaptation and transformation in organizational and behavioral level takes place within a context of normative, cognitive and legal convergence. EU-level decisions and rules represent general and idealized 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, 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 behavioral requirements, on the one hand, with weak pressures for de-coupling, on the other hand.

The specialized studies (Bennett, 1991) emphasize four general mechanisms which may induce national policies to converge:

- Emulation, characterized by „the utilization of evidence about a program or programs from overseas and a drawing of lessons from that experience" (Bennett, 1991, 221).

- Elite networking, characterized 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" (Bennett, 1991, 224).

- Harmonization „driven by a recognition of interdependence" (Bennett, 1991, 225) and characterized by „the coincident recognition and resolution of a common problem through the pre-existing structures and processes of an international regime" (Bennett, 1991, 227).
- Penetration, „in which states are forced to conform to actions taken elsewhere by external actors" (Bennett, 1991, 227).

I.3. Balkan area states' specific administrative convergence

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, and 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, 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 Balkan states, 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, 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, 49).

- The possibility of administrative convergence; which is defined by the extent to which domestic styles and structures reveal similar characteristics because the influence of European policies.
- The administrative divergence situation; this imply the fact that administrative differences across member states are increasing.
- 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.

II. European Administrative Space as a support for administrative convergence processes

II.1. General aspects

The conceptualization and transformation of the "European Administrative Space" (EAS) into an instrument for evaluating the public administration reforms in the CEE countries 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 or Luxembourg.

The entire effort to build the EAS took into consideration the reality of the constitutional and administrative law principles as key factors for democratic governance and development and elements of an "informal acquis communautaire" (OECD, 1999, 5), meant to inspire the public administrations reforms in achieving the enlargement criteria.

In this context, the study already mentioned set the objective of:

- Formulating criteria capable to stir the public administration reforms;
- Offering standards to measure the progress of the reforms.

Later on, to these objectives it was added that of technical assistance for supporting the national public administration reforms.

Can one talk of the EAS when there is a European Legal Space (ELS)? In this case, the EAS appears as a specific part of the ELS, territorially limited at being "a geographic region where the administrative law is uniformly implemented" (OECD, 1999, 9).

It is obvious that until recently, this administrative space was limited by the national borders of the sovereign states and was the product of the national legislation. The evolutions that followed (gravely marked by the creation and enlargement of the European Union that determined the development of the national administrative spaces towards supranational dimensions) lead to the dissolution of the traditional boundaries of sovereignty.

In conclusion, 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, 9).

The existence of a European Administrative Space implies that the national public administrations are ruled based on common European principles, norms and regulations, uniformly implemented within a relevant territory (Cardona, 1999, 15).

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. Another important question is to be raised: What is "convergence" and what criteria can be used to decide whether an EAS exists (Olsen, 2003, 1)?

The development in question is not a simple process. Quite recent analyses show some other possible contradictory evolutions.

Thus, it is stated that "a development of the EAS may be in contrast to the national administrative systems, where the structure of the public administration structure reflects the identity, history and the specific states of the societies" (Nizzo, 2001, 2).

Still, as the processes of European integration deepen and enlarge, the EAS develops and evolves pointing out the values expressed by standards and good practices specific to public administrations situated closer to the citizens.

Matei and Savulescu offer us a systemic view on the EAS (2010). They underline the EAS capacity to embody and interiorize the administrative convergence and dynamic processes, as well as the public administration Europeanization one, in a broader manner.

Theories and good practices, evolving simultaneously with the processes of deepening the European integration or Europeanization of public administration, have been developed for the concept of the European Administrative Space (EAS). Although, for the time being, EAS expresses pre-eminently as a dynamic system, revealing the development of own self-adjustment mechanisms, we witness a few preoccupations concerning the systemic substantiation. The self-adjustment mechanisms of EAS are based on legislative harmonization, transfer of good practices, as well as strategies of the administrative reform. The national, infra-national and European administrations represent the organizing pillar of EAS.

This reality leads to the hypothesis of organizing EAS as a multi-polar system, with mixed architecture. The relative recent occurrence of EAS justifies its development on principles similar to those of New Public Management. The enlargement processes of EAS, the administrative convergence and dynamics are emergent and express systemic effects, encompassing the robustness of the administrative institutions, national or regional traditions, organizational culture or geo-political aspects.

The current analyses and studies operate, in different national systems, with distinct concepts of the administrative law. Still, "it is possible to agree upon a common definition of administrative law as being the set of principles and rules applying to the organization and management of public administration and to the relations between administration and citizens" (Ziller, 1993; OECD, 1999, 11).

More specifically, we can talk of a set of common principles of administrative law steaming from the Western European countries, organized by a prestigious group of specialists and academics[2] (within the SIGMA project – OECD, 1999, 8) in:

[2] The mentioned Group was formed of: Prof. Denis Galligan, Director of the Centre for Socio-Legal Studies, University of Oxford, United Kingdom, Prof. Jacques Ziller of the Law Department at the European University, Institute in Florence, Italy, Prof. Jürgen Schwarze, Director of the Institute of Public Law at Albert-Ludwigs

- reliability and predictability;
- openness and transparency;
- accountability;
- efficiency and effectiveness.

a) **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, 2). As an EAS 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.

Other connotations of this principle may be observed when we refer to the opposition of the law supremacy in regard to the arbitrary power, cronyism or other deviations of the latter that should not be seen as similar to the discretionary power applicable in cases when, within the legal framework, a certain degree of decisional freedom is allowed.

Exercising the discretionary power is limited by the principles of administrative law by means of which the public administration is forced into acting in good trust, follow the public interest, use fair procedures for equal and non-discriminatory treatment and respect the legal principle of proportionality[3].

b) **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. The development of different social phenomena, such as the corruption or mal-administration, must be controlled by the society. This urges the administration to become available and to offer sufficient information to the exterior. As such, the openness and transparency refer to these exact attitudes and constitute the necessary instruments for achieving the supremacy of law and the equality before the law and its representatives. Assuring the openness and transparency, we protect both the public and individual interests.

As in the case above, the openness and transparency are supported by the administrative law. We refer here to practices imposed by the administrative principles, like in the case of administrative actions being accompanied by statements of reasons, etc. To this, we may add the necessity to grant the access to public recordings, the restrictions placed for the civil servants and the necessity for the chosen authorities to exactly represent the public interest.

The Lisbon Treaty sets out a more stable institutional system, and advocates in this respect for a more democratic, responsible and transparent governance.

It should be noted that openness gained new characteristics once the public administration was considered to be a public service. In this context, openness becomes acquisitiveness to the citizens or other authorities' initiatives regarding the improvement of public services and their getting closer to the citizen. A new concept emerges – the open administration (OECD/CPAP, 2002).

c) **Accountability.** It is one of the instruments showing that principles like the rule of law, openness, transparency, impartiality, and equality before the law are respected; it is essential

University in Freiburg, Germany, and Mr. Jacques Fournier, member of the Conseil supérieur de la Magistrature, France.

[3] Arguments, who state that discretionary legality cannot operate without the general principles of administrative law, are specifically offered by the European Court of Justice (see Case of Technique University of Munchen, 1991, ECR-I-5469.

to ensuring values such as efficiency, effectiveness, reliability, and predictability of public administration. As it is described by the authors of the EAS, 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.

Furthermore, accountability also requires that no authority should be exempt from scrutiny or review by others, which means that, simultaneously or priory, mechanisms for implementation are created.

These mechanisms contain a complex of formal procedures that give a concrete form to the accountability act, as well as supervision procedures that aim to ensure the administrative principle of "administration through law", as it is essential to protect both the public interest and the rights of individuals as well.

d) **Efficiency and Efficacy.** The introduction for the public sector and public administration of the efficiency and efficacy as important values is relatively recent. This is to be understood since today, when serious fiscal constraints and development of the goods and services are in place, talking of an economic optimum for the public sector is possible (Matei, 2004, chapter VI).

In this context, efficiency becomes a managerial value that points towards maintaining the optimum equilibrium between the allocated resources and the obtained results, while efficacy – a connected value that makes sure that the activity of the public administration achieves the intended objectives and solves the public problems recognized by law and the governance process as in its duties.

The analyses in the field show that it is possible to discuss of contradictory developments between assuring efficiency ad the rule of law. The European Commission has already intervened, by creating legal institutional solutions – directives to prevent these developments. European Community law also calls for efficient administration, particularly with regard to the application of Community directives and regulations.

Relevant to this end we may note the reinforcement, under the Lisbon Treaty on the application of the principles of subsidiarity and proportionality, where for the Commission, it is stated that "any legislative proposal should contain a detailed statement […] which […] should contain some assessment of the proposal's financial impact and, in the case of a framework law, of its implications for the rules to be put in place by Member States, including, where necessary, the regional legislation" (article 4).

The above principles are not only theoretical in value. They constitute the base for an unitary application of the principles of the administrative law within the national administrations and the construction and enlargement of the EAS. These principles may not function on the basis of a simple knowledge; in turn, they assume a gradual, daily effort for interiorizing the EAS' principles as inherent to the administration, by means of institutional and legal mechanisms. The European Administrative Space appears as the closure for a large process that implies convergence, Europeanization and administrative dynamics.

II.2. Convergence by Europeanization

Europeanization is a process closely linked to the European integration, and it intercepts the impact of the latter on the national administrations. Peters (1997) and Page (1998) discuss the link between the Europeanization process and the general tendency of the administration to transit from the traditional model of government to the model of governance, where the

authority is diffuse and agencies claim a multiple role, especially in the area of public policies.

Governance is generally seen as an alternative to the monolithic and hierarchic concept of government. Governance is orientated towards horizontal networks. In the context of international cooperation, governance is a reaction to the lack of traditional hierarchy.

The White Paper of Governance defines governance as "rules, processes and behaviors that affect the process where powers are exercised particularly at European level, and make reference to *openness*, *participation, accountability, effectiveness* and *coherence*" (Schout and Jordan, 2004, 3).

Stevens (2002, 1) conceptualizes the Europeanization as "the development and extension of the competencies at European level and the impact of the Community's action on the member states.

For Radaelli (2000, 4), Europeanization is a process that draws in three important elements: construction, diffusion and institutionalization of "formal and informal rules, procedures, policy paradigms, styles, 'ways of doing things' and shared beliefs and norms which are first defined and consolidated in the making of EU decisions and then incorporated in the logic of domestic discourse, identities, political structures and public policies". Europeanization is not convergence, harmonization or equal political integration, but stress, concludes the same author. Radaelli's definition takes into account the interactivity of several waiting processes, subsequent to the discussion of the phenomenon of Europeanization and expressed, largely, in terms of impact upon member states.

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.

Wessels and Rometsch (1995) 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. "When we will finally say there is an European model or an ideal type of public service, then, the administrative systems of the EU countries are convergent" (Claisse and Meininger, 1995, 441).

Most of the studies regarding the way the process of Europeanization affect the national institutions and the political approaches draw back to the institutionalist perspective. A clear definition of the Europeanization is presented by Wessels et al. (2003, 6): "incremental process re-orienting the direction and shape of politics to the degree that EC political and economic dynamics become part of the organizational logic of national politics and policy-making".

The relevant studies of the matter in debate insist on that pact that the Europeanization process is built on the bases of an institutional systematic framework that allow an analysis of the opportunity of the political and administrative structures of the European Union (Kaeding, 2004, 8).

Kassim et al. (2000) analyze the existing coordination between the use and implementation strategies of the EU policies in ten countries of the European Union. Differences we have already explored came out of that study.

Other authors (Hall and Taylor, 1998) use the concepts of the neo-institutionalism, 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, 84).

The *sociological approach* anticipates the *opportunistic administrative structure* within the national administration, able to determine the transposed national model. Convergence thus is realized, in the framework of "the institutions that frequently interact or are exposed to timely development, of the similarities in the organizational structure, processes, managerial philosophy, resource allocation principles and sound reforms" (Olsen, in Steunenberg and Van Vught, 1997, 161). We should also mention that the real situation presents institutionally or culturally unified or fragmented administrations. This is why we talk of gradual adaptation, understood, in the case of national administrations as norms, ideas and beliefs that help into achieving "*the emergence of the similar individual growth for national processes and structures*" (Harmsen, 1999, 84). In this case, as pointed out by March and Olsen (1989), the mechanism is the imitation or the act of copying mechanisms and characteristics of other organizations for the benefit of increasing your own organizational efficiency.

The sound national adaptation manages to reflect different administrative cultures namely, the enlargement of the set of values and practices and the conditioned administrative behavior. The process is lead by logic of allocation, of reflection of the pre-existent beliefs or legitimate or appropriate political forms.

In the rational choice approach, *the opportunistic political structure* of the EU member states may affect the transposed national model. The basic structure of a country, with no regard to the federal (Germany, Belgium or Spain), unitary (France, Greece, Great Britain) or somewhere in between organization (The Netherlands), the fundamental intermediary interest no matter their pluralist (Great Britain), corporatist (Germany) or consensualist (The Netherlands) nature, the structure of the executive bodies – collegial as in The Netherlands or Italy, unified as in Great Britain or bicephalous as in France and the nature of the political system (dominant, with a small or large number of ideologically different parties, or dominant with a small or large number of parties with a *feeble* discipline), horizontally describe the political system. Higher decentralization, with several tiers and bureaucratic actors is involved in the transposition process, a more difficult and hard process. From a consequentiality 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, likely to adopt the agreements proven to be more efficient (Kassim, Peters and Wright, 2000, 27).

The anticipated outcome is "*a gradual convergence of the national practices towards more effective solutions [...] for common problems*" (Harmsen, 1999, 84). Here, performance standards are a direct function of the opportunistic political structure.

II.3. Administrative Dynamics

In its content, the *administrative dynamics* tries to catch as vivid as possible, the evolution of the social processes and phenomena in the public administration space, as well as those adjacent, such as strategic management, legislative process and connections with other subsystems of the society.

"Administrative dynamics is governed by legislators or announced and enforced by the courts" (Weber, 1978, Chapter IX).

Some of the stages of this dynamics were briefly described in the above subchapter dedicated to convergence.

Regardless the country, public administration in itself, is hard to change. It is possible to admit convergent structural, content or behavioral transformations, if accepting the existence of a certain yet not necessarily unique or divergent model, when leaving aside the traditional national values or replacing them with ones not really configured to the social realities and physiognomy of a country.

It is for this reason that we believe there is no acquis communautaire in the case of public administration. Its existence would assume, a priori, the existence of an European model.

In contemporary democracies administrative environments are not, however, so simple, coherent and imperative. Older or more recent analyses show that *"they seldom provide public administration with clear competences, rules, objectives and incentives. On the contrary, the administration operates in a complex ecology of institutions, actors, goals, rules, interests, powers, principles, values, beliefs and cleavages. Politicians, judges, experts, organized groups, mass media and individual citizens are likely to hold different and changing – not coherent and stable – concepts of 'good administration' and 'good governance'"* (Olsen, 2002, 3).

During transition, such as the one encountered in Central and Eastern European countries, conceptions of the administration are challenged and dramatically redefined. *"Conventional wisdom becomes heresy: administrative virtues are reorganized; expertise is scrapped and new types of knowledge, skills and training are demanded. Trust in institutions disappear or emerge. Organizational structures, roles and cultures are branded illegitimate and new ones are legitimized. Because tensions are enduring rather than temporary, any prescription based on hegemonic aspirations and the universalization of a concern is likely to foster criticism, countervailing forces and search for a new balance between institutions. Theorizing administrative dynamics requires understanding how balances are struck and administrations find their place in a political order"* (Kaufman, 1956, 1057-1073; March and Olsen, 1989).

Such institutional balancing acts are usually constitutional and political and are necessarily accompanied by adequate managerial techniques. Organizing public administration involves a power aspect. *"The lifeblood of administration is power"* (Long, 1949, 257) and Weber (1978) observed that *"The political masters could easily become dilettantes facing a professional administration"*.

Finally, administrative dynamics assumes the dynamics of the public administration concept that should imply, a priori, relations between the specific authority and power (Bossaert, Demmke, Nomden and Polet, 2001, 17). As such, it will determine an analysis in terms of *realpolitik*[4] of the evolution each administration faced, in different contexts, identities and power and autonomy balancing.

[4] The "realpolitik" rhetoric and the administrative reform assume that the administration is simply one self-interested part of a political struggle among contending interest, building coalitions and alliances. Details regarding this concept may be found in J.G. March, J.P. Olsen, "Organizing Political Life: What Administrative Reorganization Tells Us About Government" in "American Political Science Review", 1983, 77, pp. 281-297.

III. National public administrations reforms

III.1. Public administration reform models

Specialized literature from the past two decades offers a great attention to public administration "reform". If we add Webber's preoccupations (1922) and the following evolutions of "weberianism", we can portray almost an entire century of preoccupations concerning the public administration organization and evolution. The next short description intends to offer only the fundamental ideas and the alternatives that are the core point of the national public administrative reform strategies of the EU member or acceding countries.

III.1.1. Weberian perspectives

The image of public administration is associated with the organization and the power balance within the state. This representation did not face isolated evolutions, but in the dynamics of theories from the weberian bureaucratic model to the NPM and public governance. In this sense, it is worth mentioning the German sociologist and historian Max Weber's contributions (1922) that stated that "bureaucracy transcended the public and private frontiers; it penetrates the progress in the most diverse spheres, if the conditions characteristic to modernity are being fulfilled". The bureaucratic model is valid for both public administration and for "other types of enterprises sector".

This model defined by Weber is based on a "legal-rational" authority, being a model of "good structure" aimed by organizations. For the public administration organization, the conceptual elements specific for Weber's bureaucracy are transposed in jurisdictions, functions and specific tasks.

The elements of bureaucratic organization (Weber, 1922, 956-963):

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.

From the procedural point of view, the bureaucracy is:

1. *Impersonal or dehumanized*. Weber considered it the first quality ("special virtue") because emotional "irrational" elements are eliminated from the individual bureaucrats' or organization as a whole performance.

2. *Formal*. As long as bureaucracy does not depend on persons, but on functions, almost everything that represents structure and operation is written in a formal manner.

3. *Legal*. Bureaucracy operates according to formal rules that are public and written. Their role is to regulate a certain procedure and to assure the legality of the reports with the organization's external context.

4. *Ordered*. Individual bureaucrats must convey to bureaucratic rules, otherwise they might get sanctioned. These rules try to assure impersonality and to sustain the hierarchical authority.

5. *Efficient* because it activates continuously, rationally, ordered, concrete and in time.

6. *Powerful.* The power emerges especially from rationality, professionalism, trust and continuity. Weber says that a well developed bureaucracy can not be practically controlled from outside the organization; on the contrary, the society becomes depended of it sine it

offers services and implies constraints. Hence, the organizational element (bureaucracy) tends to become the greatest force within a society.

7. *Expanding.* It assumes that bureaucratic expansion is not driven just from efficiency and power, but also from the qualitative and quantitative increase of the tasks requesting administrative organization within a complex society.

The period of 1940s is characterized in the public administration theory sphere by critical positions concerning the bureaucratic model of Merton, Gouldner, March, Simon and Crazier, highlighting the dysfunctional aspects of the weberian model application such as: discipline and behavior standardization, the existence of a "bureaucratic vicious circle", the bureaucratic structures decisions' inefficacity (Matei, 2006, 68-71). Nevertheless, public administrations' evolution confirms the dependency on the bureaucratic organization principles: hierarchy, specialization, formal procedures are features of today public organizations; state and administrative structures' role reaffirmation (cultural, regional, local) as representative democracy legitimization (Politt and Bouckaert, 2004).

At the end of XX century a new theory is being proposed that aims to overcome the pure theory of Weber's bureaucracy. It assumed changes of the rigid, hierarchical, bureaucratic forms of public administration with new flexible ones, a change of the government role in society, of the government-citizens relation (Osborne and Gabler, 1992, 221). We switch from a formal structural organization, oriented towards law (government sustained by administrative law) to an efficient organization, an efficient management and an efficient allocation of public resources, based on the new role of the state defined from the economic point of view.

NPM with an extensive range of mechanisms, organization, the appliance of new institutional economy, market mechanisms employment (Boukaert, peters and Verhaest, 2010, 34-50; Pollitt and Boukaert, 2004; Lapsley, 2009), introduces new concepts and roles in public actions (Hord, 1991, 4-5) and in government (Peters and Pierre, 1998).

"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 is its focus in 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, 17-18).

This Neo-Weberian perspective appears to yield the following principles (Pollitt and Bouckaert, 2004, 99-100).

- 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.

- 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.

- 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.

- Representative Democracy. It 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 "un-bureaucratic" (in Weber's sense) because it could not maintain its neutrality in the face of external political control.

- 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.

- 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.

- 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).

- 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, 99-100).

Table 1

Characteristics of Weberianism, NPM, Neo-Weberianism and Public Governance
(Cepiku and Mititelu, 2010)

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 and collaboration	Plural and pluralist state (networks)
Public service ethos	Competition and market place	Public service ethos	Neo-corporatist
Representative democracy as the legitimating element	Client empowerment through redress and market mechanisms	Supplementation of democracy with consulta-tion 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

III.1.2. Contemporary premises for models of public administration reform

Ocampo (1998) evaluates *three models* of public administration reform (Ocampo, 1998):

the "reinventing government" model (Osborne and Gaebler, 1993)

the "business process reengineering" model (Hammer and Champy, 1993)

the "New Public Management" model (Hood, 1995, 1996; Kickert et al., 1997).

The "reinventing government" model was a "(r)evolutionary change process" intended to design "a radically new way of doing business in the public sector" (Osborne and Gaebler, 1993, 18). Therefore, this model comprises "practices of those who have dealt with government problems in innovative ways" and it depicts a "paradigm shift" (Ocampo, 1998, 248).

Hammer and Champy's "business process reengineering" model (BPR) "is the fundamental rethinking and radical redesign of business processes to achieve dramatic improvements in critical contemporary measures of performance, such as cost, quality, service, and speed" (Hammer and Champy, 1993, 32), and "it represents an effort to turn back the Industrial Revolution and reassemble the tasks and functions taken apart by the 19th century principles of the division of labor" (Fowler, 1997, 36-37). Therefore, this model is more introspective and the information technology plays an important role. Although it is broadly employed in the private area, it is rarely operated in the public one (Ocampo, 1998, 249).

In the 1970s, on the reform agenda of several OECD countries emerges a new "group of administrative doctrines", "a new paradigm for public management" (Kickert, 1997, 733), namely, the New Public Management (NPM). Hence, the first dimension of NPM that comes into view is "active control of public organizations by visible top managers wielding discretionary power" (Hood, 1996, 268).

Since the 1980s, the ideas of New Public Management (NPM) become very popular worldwide, and "almost all national governments of developed countries have adopted ambitious policies of administrative reform or administrative modernization […] more or less NPM-driven". Moreover, "policy-makers from very different countries have selected elements or the whole of that NPM «toolkit» and transplanted/transposed them into their own public administration" (Cole and Eymeri-Douzans, 2010, 396). Nonetheless, NPM gives the impression of being the "latest legitimizing repertoire to be mobilized by the competitors involved in the long-running contests for domain and authority within central executives" (Cole and Eymeri-Douzans, 2010, 400).

The following table comprises the characteristics of the three above shortly presented models of public administration reform and management.

Table 2

Characteristics of public administration reform models (adapted from Ocampo, 1998)

MODELS' CHARACTERISTICS

"Reinventing government" model *(Osborne and Gaebler, 1993: 19-20)*	**BPR model** *(Fowler, 1997: 36-37)*	**NPM model** *(Kickert, 1997: 733)*
Most entrepreneurial governments promote competition between service providers. They empower citizens by pushing control out of the bureaucracy, into the community.	Separate, simple tasks are combined into skilled, multi-functional jobs. The stages in a process are performed in their natural order. Work is performed where it is best done.	Strengthening steering functions at the center. Devolving authority, providing flexibility. Ensuring performance, control, accountability.

"Reinventing government" model *(Osborne and Gaebler, 1993: 19-20)*	**BPR model** *(Fowler, 1997: 36-37)*	**NPM model** *(Kickert, 1997: 733)*
They measure the performance of their agencies, focusing not on inputs but on outcomes. They are driven by their goals—their missions—not by their rules and regulations. They redefine their clients as customers and offer them choices. They prevent problems before they emerge, rather than simply offering services afterward. They put their energies into earning money, not simply spending it. They decentralize authority, embracing participatory management. They prefer market mechanisms to bureaucratic mechanisms. They focus not simply on providing public services, but on catalyzing all sectors—public, private, and voluntary—into action to solve their community problems	The volume of checking and control of separate tasks is reduced. There is total compatibility between processes, the nature of jobs and structure, management methods, and the organization's values and beliefs. IT is recognized and exploited as offering many opportunities for the redesign of the work systems and the provision of information to enhance devolved decision-making. Processes may have multiple versions to cope with varying circumstances. Managerial hierarchies and organizational structures are flattened. Rewards are given for the achievement of results, not simply for activity. Work units change from functional units to become process teams. Customers have a single point of contact with the organization.	Improving the management of human resources. Optimizing information technology. Developing competition and choice. Improving the quality of regulation. Providing responsive service.

When it comes to "disaggregation and delineation of public agency units, functions, and roles", NPM model holds opposing views from the reengineering model, namely on the "recombining thrust" feature. (Ocampo, 1998).

When it comes to BPR model, it is more introspective and operates manly in the private area and the NPM model is "a reflection of the reinvention model", highlighting "certain crucial areas more than the latter does" (Ocampo, 1998).

III.1.3. State restructuring and the reform of public administration

Public administrations have different ways of reorganizing, from "reclassification of ministerial departments, divisions and directorates-general, to the creation of agencies that splinter bureaucracy" (Cole and Eymeri-Douzans, 2010, 397).

As Cole and Eymeri-Douzans(2010) emphasize in a recent introductory chapter of the International Review of Administrative Sciences, the literature seems to have a great interest in the role of agencies and other forms of organizational decentralization, but much less on organizational and professional mergers within public administrations". And it is emphasized the distinction between the "process of specialization" and "de-specialization". In the first situation, the bureaucratic instruments are "more differentiated and fragmented", while the second "imply a structural integration of formerly separated organizations" (Cole and Eymeri-Douzans, 2010, 396). Nevertheless, in practice, "specialization and de-specialization might be interpreted as two sides of the same coin" since both of them intend to offer "a strategic sense on organizational reforms and to resolve the increasing problems of coordination in contemporary government" (Cole and Eymeri-Douzans, 2010, 397).

Cole and Eymeri-Douzans identify a set of variable influencing state reforms in Europe, trough the lens of administrative mergers as follows:

I. *Institutional legacies* – an "explicit factor of resilience of national administrative structures and inter-institutional configurations to cross-national neo-managerial pressures for change".

II. *Reform fashions* – policy fashions, cross-border benchmarking, international policy transfers that "lend the appearance of converging reform trajectories".

III. *Hybrid logics of institutional engineering* – agencification vs. administrative mergers.

IV. *Interaction between collective strategies of involved institutions and groups* – "mergers or other forms of administrative re-engineering […] take place in the context of «bureaucratic politics» power games between […] institutional rationalities"

V. *Multi-level dynamics* – observable especially in Spain, UK and Germany's situations.

These variables "mediate the exogenous (international) and endogenous (localized) pressures for change". In the case of Western democracies, state reforms "are not constructed on a *tabula rasa*", due to their intricate context (Cole and Eymeri-Douzans, 2010, 398-400).

III.2. Context of the administrative reforms

III.2.1. South-Eastern European states and European integration

The accession to the EU and enlargement of the European integration process have determined profound reforms in the European countries area, reforms gravitating around the objective nucleus represented by observing the fundamental principles of democracy, separation of powers and respect for the rule of law.

Reform is considered as a fundamental part of a national effort to improve efficiency as diverse as Greece (Michalopoulos, 2003; Matei and Matei, 2010), increasing the competence and effectiveness of public administration, increasing the expertise, professionalism, knowledge and transparency (Slovenia, Romania, Bulgaria, Croatia).

The year 1990 represented the start of founding the decentralized system, marked by legislative, institutional, political, economic reforms. The states analyzed have represented the arena of the reforms in the administrative and judicial systems, some states have been interested to continue their preoccupations in view to implement the Community legislation into their domestic legislation, as well as to review and adapt to the specific European developments and requirements, while other states have been interested in the progress process in view of accession (Croatia) or in adopting a collection of laws, strategies and action plans for becoming EU and NATO members.

The public administrations in the South-Eastern Europe area are subjected to a reform process according to the requirements of the integration process in the EU structures (Andrei, Matei, Rosca, 2008). The process is defined as an ensemble of reform measures at the level of civil service, local government and achievement of decentralization.

Moreover, on the South Eastern European states, as well as on other countries, the economic and financial crisis exerts pressures influencing the mechanisms of the relationship between the two political and administrative levels, in all cases with implications related to financial constraints and effects on public service.

The reforms of state administration started some time before countries' accession to the EU (Bulgaria, Romania, and Slovenia).

The accession criteria of Copenhagen (1993), Madrid (1995) and Luxembourg impose to the candidate states *conditionality on guaranteeing democracy*, rule of law, human rights, protection of minorities, *economic conditionality* – functional market economy, *political conditionality* – adherence to the objectives of the political, economic, monetary Union of the EU, resulted from the membership obligations.

The above mentioned criteria are completed with supplementary clarifications of the European Council of Madrid, supporting the national reforms of the candidate states related to their capacity to reform the administrative and legal structures in order to implement the Community rules and procedures.

Membership means that each administrative field and economic sector of the candidate countries should respect acquis communautaire (Annex 1).

The national administrations are assessed according to criteria of „legal and administrative capacity to implement acquis communautaire", fact creating serious difficulties due to diversity of the administrative systems, levels of institutionalization, values and resources required by changes.

The framework of the EU enlargement policy to Western Balkan states consists in the Stabilization and Association Process (SAP) in view to get closer the Western Balkan states to the EU, aiming three objectives:

- stabilization and transition to market economy;
- promoting the regional cooperation;
- perspective of accession to the European Union.

Additionally new instruments such as the European Partnerships were introduced by the Thessaloniki Agenda (High Level Summit in Thessaloniki, June 2003), or multi-country support projects, Pre-Accession Assistance instruments (Annex 2) sustaining the reform process in Western Balkan countries (Figure 1). The pre-accession strategy prepares the candidate countries for EU membership. It comprises framework programs and mechanisms.

Multi-country support sustains joint projects in regional cooperation, infrastructure, justice and home affairs, single market and trade, market economy, supporting the civil society, education, youth and research. Multi-country support objectives:

- regional cooperation between candidate and potential candidate countries;
- focus on common interests and needs, the general objective is to increase cohesion and regional economic standards;
- the actions support:

o common interventions for the economic and social development;

o reform of academic institutions and assistance of exchanges of students and professors by Tempus and Erasmus programs;

o strengthening the administrative capacity and supporting the national bodies for enforcing acquis communautaire;

o administrative and judicial reform, combating corruption and organized crime;

o setting up the general strategy in view to reduce the risks of disasters in Western Balkans and Turkey.

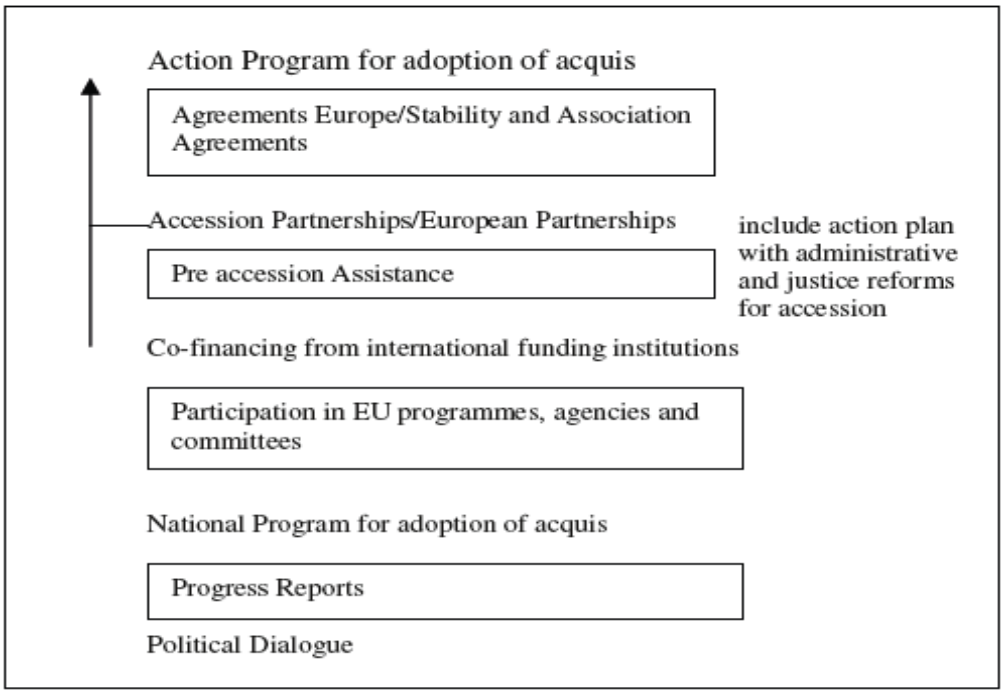

Figure 1. Components of pre-accession strategy

III.3. The public administration - reforms in South-East European states

III.3.1. General framework

The state administrative structure represents the result of an intensive development process, identifying "progressive agglomerations of territories, populations and languages" (Xavier, 1991, 17); the confirmation for enforcing the principle on separation of powers is provided by the three powers: legislative, executive and judicial power, also confirmed by the practical situation of the South-Eastern European states and their Constitutions.

For the EU Member States, candidates or potential candidates, the administrative reform is actual but shaped according to the status of the respective country.

The South-Eastern European states have most of the governance fields subjected to acquis communautaire, and the candidate states (Croatia and Macedonia, which has not yet started the negotiations for accession) or the potential candidate states should undertake, adapt to the legal specificity and implement the European legislation.

Every candidate country draws up a national program in view of adopting acquis communautaire.

Referring to public administration, we could not discuss about a specific acquis but we may confirm the existence of clear principles of national public administration, with different legislative traditions and different government systems. The Law on public administration autonomy represents acquis communautaire, whose compatibility degree with specific regulations corresponding at European level is checked by the European Commission, within the accession process of the candidate countries (OECD, 1998).

The common administrative principles, pillar for modernization of public administration and civil service in the European states (Cardona, 2009) and implicitly found as fundamental

values of the reforms of public administration and civil service in South Eastern European countries, discussed previously on a large extent, are as follows:

- rule of law;
- openness and transparency;
- accountability;
- efficiency and effectiveness.

The impact of EU legislation (after 1997) on the institutional reforms in Romania, Bulgaria, and Slovenia has been visible positive in view of improving the administrative, political, economic, institutional frameworks (Dimitrova, 2002, 178).

Since 1990, all states analyzed were concerned to adopt the Constitution, to systemise, unify and update the whole legislation, comprising all the fields of the economic-social life (Annex 3). At the EU Member States level, the harmonization process according to acquis communautaire has continued, taking into consideration both the recommendations of the European Commission and the domestic market operators' requirements, for instance in the tax field in view of improving the domestic tax laws, capital market, internal public audit (Romania, Bulgaria, Slovenia).

Since 2003, Bulgaria following the adoption of key legislation and reforms in various spheres of the administration undertaken general European trends and good practices, given that at the European level there is no single strategy for strengthening the capacity of the state administration nor is there a unified model for its most effective functioning.

As a remark, comparing the evolution of the legislative initiatives of the Government of Romania in 2007 and 2008, it is worth to mention the balanced evolution of the drafts for normative deeds, registering in 2008 a decrease of the number of those proposals from 216 to 191. Matei (2008b) emphasizes in a report the decrease of the number of legislative drafts in justice, internal affairs, public administration, defense, education, agriculture, environment and sustainable development while other fields (economy and finance, transportation, labor, culture, communications) registered an increase in the number of legislative initiatives by 75%.

The administrative reforms may be complex, including changes as a result of pre-accession, accession processes, Europeanization and recently the effects of the world economic and financial crisis. We speak about a transformation of the national public administrations in line with the developments of the administrations of the „European Administrative Space".

III.3.2. Comparative analyses

III.3.2.1. Democratic processes

The systemic transformation at the level of the states analysed, reflects the size of the interrelations between executive and legislative, taking into consideration the background of „renewing" the political elites (Agh, 1998, 70; Mendelski, 2008, 28) and developing democracy (Table 3).

Table 3

Evolution of the "Democracy Score"

Year / Country	*1999/2000*	*2001*	*2002*	*2003*	*2004*	*2005*	*2006*	*2007*	*2008*	*2009*
Democracy Score										
BELARUS	6.25	6.38	6.38	6.46	6.54	6.64	6.71	6.68	6.71	6.57
BULGARIA	3.58	3.42	3.33	3.38	3.25	3.18	2.93	2.89	2.86	3.04
CROATIA	4.46	3.54	3.54	3.79	3.83	3.75	3.71	3.75	3.64	3.71
MACEDONIA	3.83	4.04	4.46	4.29	4.00	3.89	3.82	3.82	3.86	3.86
MOLDOVA	4.25	4.29	4.50	4.71	4.88	5.07	4.96	4.96	5.00	5.07
MONTENEGRO	5.67	5.04	4.00	3.88	3.83	3.79	3.89	3.93	3.79	3.79
ROMANIA	3.54	3.67	3.71	3.63	3.58	3.39	3.39	3.29	3.36	3.36
SLOVENIA	1.88	1.88	1.83	1.79	1.75	1.68	1.75	1.82	1.86	1.93
UKRAINE	6.63	4.71	4.92	4.71	4.88	4.50	4.21	4.25	4.25	4.39

Source of data: "Nations in Transit 2009", Freedom House
NOTE: The ratings reflect the consensus of Freedom House, its academic advisers, and the author(s) of this report. The opinions expressed in this report are those of the author(s). The ratings are based on a scale of 1 to 7, with 1 representing the highest level of democratic progress and 7 the lowest. The Democracy Score is an average of ratings for the categories tracked in a given year.

The public administration has strong political, social, economic, cultural pillars, as action of the executive power (Vedel and Delvolvé, 1988, 56), as intervention of the public power in public action, in guiding the public affairs, achieving and implementing the public policy.

A "model" of administrative reforms in the South-Eastern European countries can not exist, but we may speak about „models", „asymmetric models", as entitled by Marcou and Wollman (2008, 133) and institutional „experiments" on public administration in those states, which have passed into a reforming process since the 1990s.

A statistic analysis (Annex 4) of the outcomes mentioned in Table 1 provides an eloquent image on the correlated evolution of "the democratic score" in the states analyzed.

Introducing a new variable which calculates the average of the scores obtained for the sample chosen, we shall find out that, related to it, the Pearson statistic correlations describe several categories:

states powerful correlated in relation to the general trend of the sample (Bulgaria (0.854); Croatia (0.795); Montenegro (0.878); Ukraine (0.986)).

states that are average and low correlated in relation to the general trend of the sample (Romania (0.508); Slovenia (0.280); Macedonia (0.014); Belarus (-0.880); Moldova (-0.811)).

The explanations for such a situation are profound and have a direct connection with the overall political evolution in the respective states. Analyzing from area perspective, we remark that for the Western Balkan states, the calculations are positive, being comprised between 0.280-0.878 in relation to the general average of the sample. However, also inside the group of the Western Balkan states, the most eloquent examples are provided by Macedonia, which has negative correlations with all the other states. For the states that

belonged to the former Soviet Union, the evolutions are contradictory. Related to the general trend of the sample, Belarus and Moldova have high negative correlations and Ukraine has a high positive correlation (0.986). That situation imposes the conclusion concerning non-correlation between the first two states, Belarus and Moldova, and Ukraine.

As recent European Union Member States, Romania and Bulgaria have similar evolutions, Bulgaria having more powerful correlation related to the average.

III.3.2.2. Public administration

The main priority of the reform of the administration is its optimization at central and local levels through modernization and organizational development. The creation of new administrations, the restructuring of existing ones, closing down of ineffective structures and units, their optimization as well as their organizational development are not aimed at achieving a larger but a better organized more effective and politically neutral administration.

A common feature of public administration in the studied states consists in highlighting the common principles (Marcou, 2007) of organization and operation, namely: principle of local self-government (in Constitution and law), the character of local powers, the functions and (regulation, supervision etc.) powers of the local authorities (stipulated by law) or procedures for protecting local self-government.

The territorial size of public administration, which represents the basis for dividing the central public authorities (government, ministries, central government agencies), territorial and local public authorities (municipalities, communes) is represented in all countries studied, observing the traditional model, conceived on two levels, local council – first tier and the superior one, the central tier, Greece, Romania, Bulgaria, Croatia, Montenegro, Macedonia), and in some cases with interim tier, Belarus (three tiers: regional, district and village). Concerned about their performance, the national governments of the EU Member States, according to EAS principles enforcement – effectiveness and efficiency – subsidiarity, local autonomy and decentralization, are resizing the intergovernmental relations with the local tier (Matei, L., 2008a).

Each territorial structure has its own local administrative authority (Marcou, 2007), administrating the structure, respecting and acknowledging the principle of local democracy.

The administrative organization composed of two or three tiers, is stipulated in the state's Constitution, special laws on local government, law on administrative decentralization and local autonomy, (Annex 3), confirming the application and compliance to EAS principles, *trust* and *predictability*.

For example:

- Croatia's internal territory has been divided into 20 Zupanijas (counties), 120 cities, and 420 municipalities based only partially on territorial and demographic logic.

- In Ukraine, the administrative territorial structure is considered non-realist, according to Sushko and Prystayko (2009) as the structure is not related to the number of citizens, division of competences between the central and local levels. Ukraine has an administrative territorial structure represented by: the Autonomous Republic of Crimea and 24 oblasts, raions (oblast districts) and cities with raion status, cities and villages and townships (Sushko and Prystayko, 2009, 555-556).

- The administrative organization of Romania is represented by (2851) communes, (216) towns, (103) municipalities and (42) counties, with the possibility to declare some towns as municipalities (Article 3(3), Constitution of Romania, 2003).
- In Belarus 1.700 local governments exist, subdivided into three levels: regional (*voblasc*), district (*raion*), and village or (in urban areas) township.
- Macedonia has only two tiers of governance, with no intermediary level between the municipalities and the central government.

The territorial administrative organization is established by special laws, supplementing the provisions of the Constitution.

III.3.2.3. Governance

The pragmatic approach to administrative reforms reflects the size of democratic governance (see the approach of United Nations Development Program, indicators of the World Bank), whose main component is the public administration.

The governance indicators reflect the effects of stabilization and association processes, of pre-accession or accession to the EU in the dynamics of the stages ranging from pre-accession to accession, for Bulgaria, Romania, Slovenia or negotiation stages, the case of Croatia, candidate country or Former Yugoslav Republic of Macedonia (candidate country since December 2005, the negotiations for accession have not yet started) or Montenegro, potential candidate country (Table 4).

Table 4

Year / Country	*1999/2000*	*2001*	*2002*	*2003*	*2004*	*2005*	*2006*	*2007*	*2008*	*2009*
Governance										
BELARUS	6.25	6.25	6.50	6.50	6.50	6.75	7.00	7.00	7.00	6.75
BULGARIA	3.75	3.50	3.50	3.75	3.75	3.50	3.00	3.00	3.00	3.25
CROATIA	4.00	3.50	3.50	3.75	3.75	3.50	3.50	3.50	3.25	3.50
MACEDONIA	3.00	3.75	4.25	4.50	4.0	4.00	3.75	3.75	4.00	4.00
MOLDOVA	4.50	4.50	4.75	5.25	5.50	5.75	5.75	5.75	5.75	5.75
MONTENEGRO	5.50	5.25	4.25	4.25	4.00	4.50	4.50	4.50	4.25	4.25
ROMANIA	3.50	3.75	3.75	3.75	3.75	3.50	3.50	3.50	3.75	3.75
SLOVENIA	2.25	2.50	2.25	2.25	2.00	2.00	2.00	2.00	2.00	2.00
UKRAINE	4.75	4.75	5.00	5.00	5.25	5.00	4.50	4.75	4.75	5.00

Source of data: "Nations in Transit 2009", Freedom House
NOTE: The ratings reflect the consensus of Freedom House, its academic advisers, and the author(s) of this report. The opinions expressed in this report are those of the author(s). The ratings are based on a scale of 1 to 7, with 1 representing the highest level of democratic progress and 7 the lowest. The Democracy Score is an average of ratings for the categories tracked in a given year.

The statistic analysis (Annex 5) of the scores concerning the "governance" indicator presented in Table 4, is leading to conclusions with general character.

Thus, we may find out that due to the complexity of the indicator, the degree of correlation with the average of the sample is lower than for the "democratic score" indicator. Also the correlations described in Annex 5 observe generally the previous correlations, confirming the direct connections between the democracy evolution and governance performance.

Related to the general trend of the sample, we shall identify the following categories:

- states powerful and average correlated: Ukraine (0.743); Macedonia (0.675); Bulgaria (0.495).
- states low correlated: Romania (0.361); Moldova (0.271); Croatia (0.180).
- state inverse correlated: Montenegro (-0.519); Belarus (-0.122) and Slovenia (-0.116).

The area characteristics are also changing. Thus, for the Western Balkan states, the evolutions in relation to the general trend of the sample are positive for Macedonia and Croatia and negative for Montenegro and Slovenia. It is interesting Macedonia's evolution, with negative correlations in relation to all the Western Balkan states and positive correlation in relation to the average of the sample.

The states which belonged to the former Soviet Union are also changing their behavior, derived from the perspective of the indicator analyzed. Thus, Belarus will have negative correlations, close to zero, Ukraine having the other positive correlations (0.743).

The behavior related to the other states in that sub-group is atypical also for Belarus which has average negative correlations in relation to Ukraine.

The evolutions for Bulgaria and Romania are similar related to the average of the sample but the inter-states correlations are low (0.238), demonstrating practically, a lack of correlation of the governance policies.

The decentralization process is highlighting the local self-government (Croatia, Slovenia, Romania, Bulgaria), the local level represented by municipalities and communes (in the Republic of Croatia there are 429 municipalities, 126 towns, 20 counties and the City of Zagreb) or the development of a level that does not belong to the administrative-territorial structure, that of the development regions (Romania). Local governments in Belarus are consolidated within the presidential vertical of power. By law, heads of regional administrations are appointed by and responsible to the president. Popularly elected local councils have no control over the executive bodies (Silitski, 2009, 120). Local governance in Ukraine is represented by a dual system of authorities: state administration and a self-governance council.

The new criteria of organization and operation of the public administration, emphasized in enforcing the new laws passed by the state (Annex 3), or in the states' new institutional architecture, validate the thesis that public administration is subject to the functional logic in a new context of transition from the centralized to decentralized system in a European Administrative Space.

The Croatian governance system is characterized by democratic attributes, in view of people representation (Dorić, 2009). If the local governance in some South Eastern European countries was centralized before 1990, controlled by the political center, in the last twenty years we assist at local governance reconfiguration, at the change of central-local relationships concerning the governance levels.

The study „Nations in Transit 2009" of Freedom House, emphasizes the fact that the indicator of „local democratic governance" registers values in 2009 (Table 5), ranging from 6.75 (Belarus) to 1.5 (Slovenia), values reflecting the governments' capacity to apply the principles of accountability, participation, transparency in the local governance, transferring the boundaries of central government toward the local level, groups of local communities or citizens.

The distributive focus on the competences of government spheres between the central and local level, is expressed in different actions, specific to every country. For example:

- For Macedonia, the transfer of competences from the central to local – municipal level has represented a priority, being the topic of Ohrid Agreement, even since 2001, or recently of Law on regional development (2008), thus according to Freedom House rating (2009) is situated on 3.75 level (Table 6) (Daskalovsky, 2009, 357).

- The laws and rules in Moldova clarify and share the competences of the central and local authorities, sometimes being situations of overlapping or non-regulation related to some areas.

- The new Constitution of Slovenia, passed in 1993, „made provision for self-government at both the local and regional level, but it was not until the passage of the 1993 Laco on Local Self-Government when the path was cleared for establishment of local self-governments at the municipal-level" (Hughes et all, 2004, 55). In Slovenia there are 58 state administrative units whose jurisdiction may extend over several municipalities depending on the specific competences (Lajh, 2009).

Table 5

Evolution of the "Local Democratic Governance" indicator

Year / Country	*2005*	*2006*	*2007*	*2008*	*2009*
Local Democratic Governance					
BELARUS	6.50	6.50	6.50	6.75	6.75
BULGARIA	3.50	3.00	3.00	3.00	3.00
CROATIA	3.75	3.75	3.75	3.75	3.75
MACEDONIA	4.00	3.75	3.75	3.75	3.75
MOLDOVA	5.75	5.75	5.75	5.75	5.75
MONTENEGRO	3.50	3.50	3.25	3.25	3.25
ROMANIA	3.00	3.00	3.00	3.00	3.00
SLOVENIA	1.50	1.50	1.50	1.50	1.50
UKRAINE	5.25	5.25	5.25	5.25	5.25

Source of data: "Nations in Transit 2009", Freedom House
NOTE: The ratings reflect the consensus of Freedom House, its academic advisers, and the author(s) of this report. The opinions expressed in this report are those of the author(s). The ratings are based on a scale of 1 to 7, with 1 representing the highest level of democratic progress and 7 the lowest. The Democracy Score is an average of ratings for the categories tracked in a given year.

- In Croatia, the delimitation of competences between the central and local levels is supported by the territorial administrative structure, emphasizing the enforcement of the decentralization principle.

- For Bulgaria, the process of the transfer of functions from the central to the municipal administration continued, for example in the areas of registration of agricultural and forest equipment, administration of local taxes and fees, homes for bringing up children deprived by parental care (Report on the State of Administration, 2006).

III.3.2.4. Integrity and corruption

Openness and transparency in public administrations are instruments necessary to observe the law, for equality before law and for responsibility. In this respect, our analysis emphasizes the preoccupations of countries to pass a collection of laws supporting transparency (Law on conflict of interests, Bulgaria, Romania, Slovenia, Croatia, Moldova, and Belarus) and access to information, associated with those for the fight against corruption – national strategies, laws. For instance:

- In Slovenia there were passed The Law on Prevention of Corruption (2003), Slovenian Anticorruption Strategy (2004), documents stipulating the elimination of conditions for occurrence of corruption in public domain, state administration, investigation, bodies of Prosecutor Office, judicial bodies, businesses etc.

- Collection of laws and strategies were updated on the fight against corruption, i.e. Bulgaria. Moldovan authorities undertook important legal reforms by adopting the Law on Conflict of Interest and a new Law on Preventing and Fighting Corruption; however, the latter was adopted with a three-year delay. The Civil Monitoring Council of the Center for Combating Corruption and Economic Crimes-Moldova's first citizen oversight of a law enforcement body-was established during the year (Vițu, 2009, 370).

- Governmental bodies were created with the responsibility to fight against corruption – in most countries analyzed, regional councils – i.e. Bulgaria, Regional Public Councils for Counteracting Corruption have been functioning in all regional administrations, or National Integrity Systems comprise "key institutions, laws and practices (the pillars) that contribute to integrity, transparency and accountability in a society", i.e. Romania, (Matei, 2006). In Montenegro, the Coordination Body for Reform of Local Government adopted an action plan for reform of local government and action plans to combat corruption at the local level (McLean, 2009, 385).

Transparency International studies concerning the corruption index for 2008 (Table 6), situates for example, Macedonia on 72nd rank from 180 countries, emphasizing its improvement. The improvement was also noted by European Commission in its 2008 Progress report on Macedonia.

Table 6

Year / Country	*1999/2000*	*2001*	*2002*	*2003*	*2004*	*2005*	*2006*	*2007*	*2008*	*2009*
Corruption										
BELARUS	5.25	5.25	5.25	5.50	5.75	6.00	6.25	6.25	6.25	6.00
BULGARIA	4.75	4.75	4.50	4.25	4.25	4.00	3.75	3.75	3.50	4.00
CROATIA	5.25	4.50	4.50	4.75	4.75	4.75	4.75	4.75	4.50	4.50
MACEDONIA	5.00	5.00	5.50	5.50	5.00	5.00	4.75	4.75	4.50	4.25
MOLDOVA	6.00	6.00	6.25	6.25	6.25	6.25	6.00	6.00	6.00	6.00
MONTENEGRO	6.25	6.25	5.25	5.00	5.25	5.25	5.25	5.50	5.25	5.00
ROMANIA	4.25	4.50	4.75	4.50	4.50	4.25	4.25	4.00	4.00	4.00
SLOVENIA	2.00	2.00	2.00	2.00	2.00	2.00	2.25	2.25	2.25	2.50
UKRAINE	6.00	6.00	6.00	5.75	5.75	5.75	5.75	5.75	5.75	5.75

Source of data: "Nations in Transit 2009", Freedom House
NOTE: The ratings reflect the consensus of Freedom House, its academic advisers, and the author(s) of this report. The opinions expressed in this report are those of the author(s). The ratings are based on a scale of 1 to 7, with 1 representing the highest level of democratic progress and 7 the lowest. The Democracy Score is an average of ratings for the categories tracked in a given year.

The report called for the government to continue with reforms, especially in implementing anticorruption legislation and reform of judiciary (Daskalovski, 2009). At the same time, Moldova recorded in 2008 an increase of the corruption perception index by 0.1 related to 2007, respectively 2.9, or Slovenia, situated on 26th rank from a total of 180 countries. The index gives Slovenia a score of 6.7 on a 1-10 scale, where 10 is the best possible score (perceived as least corrupt), classifying it as comparatively less corrupt than Czech Republic, Hungary, Slovakia and Poland (Lajh, 2009, 485).

The public administrations of the analyzed states have relative stable structures on the background of the transformations of the national administration "at governance".

As previously emphasized, we can discuss neither about the existence of a European model of public administration, nor about a model of civil service; the European Union impose, through the establishment of standards, to the Member States to respect them in organizing the civil service, observing their national and regional diversity. The distribution of legislative and executive competences, the organizational structure, the structure and size of public administration remain at the discretion of the EU Member States.

III.3.3. Civil service

III.3.3.1. European values

Civil services are components of national governance systems. The governance quality depends on the quality of civil servants' services. Democratic governance depends on the public administration, the main mechanism of the connection between state and civil society and private sector.

Democratic governance in terms of civil service involves the separation between political and administrative levels, action which differs from a country to another (determined by historical and cultural traditions of a country, legislative framework and democracy of its institutions).

That requirement is present in the administrative reforms of the countries studied, where the interest in achieving a balance between political neutrality and professionalism, continuity of public service reflects more or less the balance between political and administrative sphere.

On the background of individualization and diversification of the legal traditions and governing systems, the states have developed a common corps of doctrine, accepting the general consensus on the principles or common values of public administration, acknowledged also in the civil service.

In a democracy, the modern constitutional civil service is possible only of it meets a set of conditions:

- Separation between the public and the private sphere;
- Separation between politics and administration;
- Developing the individual accountability of civil servants through joint decision-making processes. It imposes well trained and educated public managers;
- Labor protection, stability, payroll, well defined rights and tasks for civil servants;
- Recruitment and promotion based on merit.

All those conditions, to a large extent, contribute to defining the nature and values of a professional civil service. The civil service is governed by principles established both by constitutional aspects and aspects of administrative law (Table 7). We could assert that those

are legal aspects. It does not mean that they are ethical values. The ethical values are guidelines derived from a social approach. The legal values, if they are broken, have legal consequences stipulated by the disciplinary provisions of the civil service. The civil servants are the subjects of the administrative principles specified by law.

Table 7

Principles of national civil service

No.	State	Principles of civil service	Principles of European Administrative Space
1	Romania	a) legality, impartiality and objectivity; b) transparency; c) efficiency and effectiveness; d) responsibility, in accordance with the laws; e) citizen oriented; f) stability in the exercise of civil service position; g) hierarchical subordination effectiveness in public administration	- rule of law; - openness and - transparency; - responsibility; - efficiency and effectiveness in public administration
2	Republic of Moldova	a) legality b) impartiality c) independence; d) professionalism;	
3	Bulgaria	a) lawfulness, b) loyalty, c) responsibility, d) stability, e) political neutrality f) hierarchic subordination.	
4	Republic of Macedonia	a) legality, b) equality, c) transparency, d) predictability e) fairness.	

Analyzing the principles of civil service at the national level for each of the countries studied, we notice that they embrace the principles of the European administrative space.

III.3.3.2. Career

On European level, two civil service systems (Bossaert et al., 2002) are known, "post" type and "career" type (Bulgaria, Romania, Republic of Moldova, Slovenia). Most European states have chosen the career model, linked to tradition, a certain political system, way of thinking and culture of the national civil service.

The argument for choosing that model consists in reducing genuinely the influence of the political factor on the professional career in the public system and creating the premises in view to introduce the permanent evaluation system of civil servants, promotion based on performance criterion and merit (Matei, 2006). In practice, the two systems cannot be found in a "pure" form, they are subject to reforms of "contractual flexibility, mobility in the middle of career between the public and the private sector, open competition for the top positions, reform of recruitment procedures, harmonization of pension systems, introducing a performance management system and remuneration reform".

The increase of accountability, delegation of authority, professional training and perspectives of career development within the (financial) limits of public administration may be instruments for developing the corps of professionals in the public administration.

The studies reveal that the public service could be motivational when the society is perceiving it as honest, fair, non-politicized, supporting the general interest, thus "an oriented public service" (Perry and Wise, 1990).

III.3.3.3. Professionalism and integrity

Professionalism and integrity in public service lead to trust and predictability in public administration.

The legal procedures may solve the problems, drawing up clear deadlines in view to solve a recruitment and promotion scheme based on merit, not on political patronage or alliances of different types. The respect for professional standards and legal aspects contributes to achieving the balance between the concept of (professional) independence and the concept of loyalty.

Civil service in the analyzed states presents on one hand common characteristics and on the other hand, specific characteristics, individualizing the states.

In the first category it is worth to mention:

1. existence of the legislative, regulatory framework of civil service (Annex 6), statuses of civil servants, acknowledging the attributes framed in public law, such as civil service law, other public laws or government regulations or in labor law (when we talk about collective contracts).

Table 8

Aspects of the content of civil service laws

No.	State	Job duties & responsibilities	Tenure & security	Disciplinary arrangements	Rewards & wage	Assessment of civil servants
1.	Bulgaria	x	x	x	x	x
2.	Romania	x	x	x	x	x
3.	Republic of Moldova	x	x	x	x	x
4.	Republic of Macedonia	x		x	x	x

Source: "The Scope of the Civil Service in OECD and Selected CEE Countries"

Civil Service Law, defining the responsibilities, tasks, protects professional quality and ensures continuity of public service in the context of political changes or instability.

2. mixture of three criteria for delimitating the civil service, criteria also in practice in Central and Eastern European countries: a) office in state; b) qualifications required by civil service; c) separation between politics and administration, that is political positions and professional positions (Cardona, 2000);

3. civil servants' recruitment and career, by procedures based on merit, competition and transparent procedures;

4. regulatory constraints on political membership of the civil servant;

5. policy on salaries, remuneration and assessment - transparent procedures.

The second category empowers us to assert:

1. there is the practice of adopting simultaneously specific laws for certain civil service positions for police, border police agents, teachers, doctors, custom officers as well as for civil service positions at local level. (Romania)

2. degree of centralization/decentralization of activities specific for civil service management (training, assessment, recruitment, promotion etc.)

3. responsibilities and institutional character concerning human resource management in the public sector.

Conclusions

The achieved analysis presents only sequentially some of the most important aspects that have characterized and characterize the public administration reforms in some South-Eastern European states.

The authors have intended to obtain an eloquent image on the diversity characterizing the above reforms. That diversity derives from the cultural and organizational traditions of the states analyzed, different processes and stages of reform as well as the specific aims defined in relation to a common objective, of accession and integration to the European Union.

The aim of research was regarded in the context of enlarging the European Administrative Space, and even if it does not always represent a well delimited area, it constitutes a standard of assessing the progress of the administrative reforms. In our opinion, the lack of acquis communataire concerning public administration substantiates the above presented approach.

Focused especially on the analysis of the context of administrative reforms, on their aim related to the principles of the European Administrative Space as well as on the characteristics of civil service development, the analysis triggers some relevant conclusions.

- Geopolitical specificity of the public administration reforms determines directly their level, thoroughness and characteristics. The analyzed target group comprises states belonging to Western Balkans (Slovenia, Croatia, Montenegro and Macedonia) or the former Soviet Union (Belarus, Ukraine and Moldova) as well as two recent European Union Member States (Romania and Bulgaria). For every country, conclusions were drawn aiming the evolutions on national level and especially the comparative ones. The endemic characteristics of each group of states trigger the conclusion of emergent national administrations that are self-determining and whose evolutions should consider the historical and geopolitical context.

- The regulatory and legislative fundamental issues of the reforms are based, in all states, on constitutional provisions as well as laws and adjacent documents, describing concrete aspects of designing and implementing the reforms. The pace and thoroughness of the reforms are different in every state and correlated with the overall development of the social reform.

- Generally, the reform strategies have similar structures concerning their fundamental aspects. Thus, in most cases analyzed, the aspects on decentralization, civil service and

mechanisms for making and implementing the public policies represent pillars of the administrative reforms.

- The principles of European Administrative Space find an adequate reflection in the reform strategies as well as in the mechanisms and good practices necessary to make them operational.

- Related to the stage of the accession process to the European Union, for every state, the reform strategies were correlated with accession documents and strategies and the outcomes are expressed in country reports, annually presented, in most cases by the European Commission.

- For all analyzed states and for other states in South-Eastern Europe, the European Administrative Space remains often a metaphor, an aim requiring further major efforts in view to make it operational.

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Annex 1. Thematic chapters of acquis communautaire (European legislation)

1. Free movement of goods
2. Free movement of persons
3. Freedom to provide services
4. Free movement of capital
5. Company law
6. Competition policy
7. Agriculture
8. Fisheries
9. Transport policy
10. Taxation
11. Economic and Monetary Union
12. Statistics
13. Social
14. Energy
15. Industrial policy
16. Sees
17. Science and research
18. Education and training
19. Telecommunications and Info
20. Culture and audiovisual policy
21. Regional policy and coordination
22. Environment
23. Consumers and Health Protection
24. Justice and Home Affairs
25. Customs Union
26. External relations
27. Common and Foreign Security Policy
28. Financial control
29. Finance and budgetary provisions
30. Institutions
31. Other

Annex 2. EU financial assistance under IPA in 2007 – 2012, in € million

State		
Croatia	Pre-accession Assistance Strategy strengthening the institutions, cross-border cooperation, common agricultural policy, cohesion policy	910.2
Macedonia	Reform of public administration, judiciary and police, improving the local infrastructure, cohesion policy, policy of rural development, adopting and implementing EU legislation and standards.	507.3
Montenegro		201.4
Serbia		1183.6

Source: European Commission, 2009.
IPA Instruments for Pre-Accession Assistance – A new focus to EU assistance for enlargement.

Annex 3. Laws on public administration reform in some states in Central and Eastern Europe

No.	State	Laws
	Romania	Constitution of 1991 (revised in 2003), Law on ministerial accountability no.115/1999 Law on public administration 215/2001; Law no. 90 of 26 March 2001 on organization and functioning of the Government of Romania and ministries Law no. 544/2001 on free access to public interest information Law on public finances no. 500/2002 Government Ordinance no. 24/2002 on collecting the local taxes and charges by electronic means Law no. 52/2003 on decisional transparency in public administration Government Decision no. 1019/2003 on organization and functioning of prefectures Law no. 315/2004 on development regions Law framework on decentralization no. 195/2006; Law no. 51/2006 on community services of public utilities
	Bulgaria	Constitution of the Republic of Bulgaria, 1991 Law on the Local Government and Local Administration, valid from Sept. 17th 1991 Regional Development Act, publ. SG, No. 26, 1999 Administrative-territorial System of the Republic of Bulgaria Act (ASRBA), publ. SG, No. 63, 1995, last amended - SG, No. 57, 2000 Local self-government and Local Administration Act (LSLAA), publ. SG, No. 77 from September 1991, last amended—SG, No. 1, 2001 Local Elections Act, publ. SG, No. 66, 1995, last amended—SG, No. 24, 2001 Access to Public Information Act, publ., SG, No. 55, 2000, last amended SG, No. 1, 2002 Administrative Procedure Code, 2006 Public Administration Act, Renewed SG issue130 dated Nov 5th 1998, SG issue 78 dated Sept 28th 2007 Law on e-Government, May 2007
	Republic of Moldova	Law on Government no. 64-XII, 31.05.90 Constitution of Republic of Moldova of 1994 Law of Republic of Moldova on local public administration no. 186-XIV of 6 November 1998 Law on Republic of Moldova on the normative deeds of the Government and other central and local government authorities, No.317-XV, 18.07.2003 Law on regional development in Republic of Moldova no. 438-XVI, 28.12.2006 Law on transparency in decision-making process no. 239-XVI, 13.11.2008
	Republic of Macedonia	Public Administration Act, 1990 Act for Election and Recall of National and Local Assemblies' Representatives, 1990

No.	State	Laws
		Constitution of the Republic of Macedonia, 1991 Decree on General Principles for Internal Organization of the Administrative Organs,1991 Law on Access to Information, 2008
	Republic of Belarus	Law on Local Self-government, 1991 Constitution of the Republic of Belarus of 1994 (with amendments adopted at the republican referendums of November 24, 1996 and of October 17, 2004)
	Greece	The Constitution of Greece, 1975 Law of the Public Administration Inspectorate, 1997 Law no 2690 Ratification of the Administrative Procedure Code and other provisions, 1999
	Republic of Croatia	Constitution of the Republic of Croatia, December 22, 1990 Law on the System of State Administration Law on the Government of the Republic of Croatia Law on the Organization and Competence of Ministries State Administrative Organizations Law on Local and Regional Self-Government, 2001 Law on the Right of Access to Public Information, 2003 Law on Administrative Inspection, 2008 Law on General Administrative Procedures, 2009
	Republic of Slovenia	The Constitution of the Republic of Slovenia, 1990 General Administrative Procedure Act, 1999 Public Administration Act, No. 020-05/01-22/3 Ljubljana, May 31st 2002 Public Agencies Act, No. 020-05/00-21/4 Ljubljana, May 31st 2002 Inspection Act, 2002 Decree on the procedure of filling a vacancy in state administration and judicial bodies, Uradhi list RS, No 22/04 Act on access to public information, published on March 22nd, 2003 together with changes and additions of the Act, 2005 Decree on the provision of public information, 2005 The Program of Measures for Reduction of Administration Burdens, 10 November 2005 Elections and Referendum Campaign Act (ZVRK), No. 004-01/92-8/35, Ljubljana, 26 April 2007, EPA 1187-IV e-Government Strategy of the Republic of Slovenia for the period 2006 to 2010 (SEP-2010) "e-Government for effective public administration"
	Montenegro	Law on State administration, 2003 The Constitution of Montenegro and the Constitutional Law for the Implementation of the Constitution of Montenegro, 2007 Public Administration Act, 2009
	Ukraine	The Law of Ukraine on Access to Public Information, 1992 Constitution of Ukraine, 1996 Law on Local Self-Government in Ukraine, 1997 The Law of Ukraine On Local State Administrations, 1999 The Code of Administrative Proceedings of Ukraine, 2005

Annex 4. Correlations concerning "Democracy score"

		BELARUS	BULGARIA	CROATIA	MACEDON	MOLDOVA	MONTENEG	ROMANIA	SLOVENIA	UKRAINE	MEDIA
BELARUS	Pearson Correlation	1	-.942(**)	-.446	-.471	.911(**)	-.771(**)	-.787(**)	-.390	-.826(**)	-.880(**)
	Sig. (2-tailed)		.000	.197	.169	.000	.009	.007	.266	.003	.001
	N	10	10	10	10	10	10	10	10	10	10
BULGARIA	Pearson Correlation	-.942(**)	1	.456	.468	-.833(**)	.701(*)	.812(**)	.110	.793(**)	.854(**)
	Sig. (2-tailed)	.000		.185	.173	.003	.024	.004	.763	.006	.002
	N	10	10	10	10	10	10	10	10	10	10
CROATIA	Pearson Correlation	-.446	.456	1	-.353	-.338	.623	-.036	.089	.843(**)	.795(**)
	Sig. (2-tailed)	.197	.185		.317	.339	.054	.922	.807	.002	.006
	N	10	10	10	10	10	10	10	10	10	10
MACEDON	Pearson Correlation	-.471	.468	-.353	1	-.395	-.110	.806(**)	-.035	.056	.094
	Sig. (2-tailed)	.169	.173	.317		.258	.763	.005	.923	.877	.796
	N	10	10	10	10	10	10	10	10	10	10
MOLDOVA	Pearson Correlation	.911(**)	-.833(**)	-.338	-.395	1	-.860(**)	-.762(*)	-.382	-.734(*)	-.811(**)
	Sig. (2-tailed)	.000	.003	.339	.258		.001	.010	.276	.016	.004
	N	10	10	10	10	10	10	10	10	10	10
MONTENEG	Pearson Correlation	-.771(**)	.701(*)	.623	-.110	-.860(**)	1	.381	.427	.820(**)	.878(**)
	Sig. (2-tailed)	.009	.024	.054	.763	.001		.278	.218	.004	.001
	N	10	10	10	10	10	10	10	10	10	10
ROMANIA	Pearson Correlation	-.787(**)	.812(**)	-.036	.806(**)	-.762(*)	.381	1	.069	.436	.508
	Sig. (2-tailed)	.007	.004	.922	.005	.010	.278		.850	.208	.134
	N	10	10	10	10	10	10	10	10	10	10
SLOVENIA	Pearson Correlation	-.390	.110	.089	-.035	-.382	.427	.069	1	.242	.280
	Sig. (2-tailed)	.266	.763	.807	.923	.276	.218	.850		.500	.433
	N	10	10	10	10	10	10	10	10	10	10
UKRAINE	Pearson Correlation	-.826(**)	.793(**)	.843(**)	.056	-.734(*)	.820(**)	.436	.242	1	.986(**)
	Sig. (2-tailed)	.003	.006	.002	.877	.016	.004	.208	.500		.000
	N	10	10	10	10	10	10	10	10	10	10
MEDIA	Pearson Correlation	-.880(**)	.854(**)	.795(**)	.094	-.811(**)	.878(**)	.508	.280	.986(**)	1
	Sig. (2-tailed)	.001	.002	.006	.796	.004	.001	.134	.433	.000	
	N	10	10	10	10	10	10	10	10	10	10

** Correlation is significant at the 0.01 level (2-tailed).

* Correlation is significant at the 0.05 level (2-tailed).

Annex 5. Correlations concerning the "Governance" indicator

		BELARUS	BULGARIA	CROATIA	MACEDON	MOLDOVA	MONTENEG	ROMANIA	SLOVENIA	UKRAINE	MEDIA
BELARUS	Pearson Correlation	1	-.868(**)	-.667(*)	.204	.884(**)	-.525	-.293	-.803(**)	-.334	-.122
	Sig. (2-tailed)		.001	.035	.572	.001	.119	.411	.005	.345	.738
	N	10	10	10	10	10	10	10	10	10	10
BULGARIA	Pearson Correlation	-.868(**)	1	.768(**)	.022	-.601	.202	.238	.497	.620	.495
	Sig. (2-tailed)	.001		.009	.951	.066	.575	.508	.144	.056	.146
	N	10	10	10	10	10	10	10	10	10	10
CROATIA	Pearson Correlation	-.667(*)	.768(**)	1	-.411	-.493	.402	-.209	.286	.238	.180
	Sig. (2-tailed)	.035	.009		.238	.148	.249	.562	.423	.507	.619
	N	10	10	10	10	10	10	10	10	10	10
MACEDON	Pearson Correlation	.204	.022	-.411	1	.332	-.796(**)	.600	-.100	.497	.675(*)
	Sig. (2-tailed)	.572	.951	.238		.348	.006	.067	.784	.144	.032
	N	10	10	10	10	10	10	10	10	10	10
MOLDOVA	Pearson Correlation	.884(**)	-.601	-.493	.332	1	-.680(*)	-.179	-.908(**)	.030	.271
	Sig. (2-tailed)	.001	.066	.148	.348		.031	.621	.000	.934	.448
	N	10	10	10	10	10	10	10	10	10	10
MONTENEG	Pearson Correlation	-.525	.202	.402	-.796(**)	-.680(*)	1	-.405	.616	-.513	-.519
	Sig. (2-tailed)	.119	.575	.249	.006	.031		.245	.058	.130	.124
	N	10	10	10	10	10	10	10	10	10	10
ROMANIA	Pearson Correlation	-.293	.238	-.209	.600	-.179	-.405	1	.304	.506	.361
	Sig. (2-tailed)	.411	.508	.562	.067	.621	.245		.393	.135	.305
	N	10	10	10	10	10	10	10	10	10	10
SLOVENIA	Pearson Correlation	-.803(**)	.497	.286	-.100	-.908(**)	.616	.304	1	-.092	-.116
	Sig. (2-tailed)	.005	.144	.423	.784	.000	.058	.393		.799	.749
	N	10	10	10	10	10	10	10	10	10	10
UKRAINE	Pearson Correlation	-.334	.620	.238	.497	.030	-.513	.506	-.092	1	.743(*)
	Sig. (2-tailed)	.345	.056	.507	.144	.934	.130	.135	.799		.014
	N	10	10	10	10	10	10	10	10	10	10
MEDIA	Pearson Correlation	-.122	.495	.180	.675(*)	.271	-.519	.361	-.116	.743(*)	1
	Sig. (2-tailed)	.738	.146	.619	.032	.448	.124	.305	.749	.014	
	N	10	10	10	10	10	10	10	10	10	10

** Correlation is significant at the 0.01 level (2-tailed).

* Correlation is significant at the 0.05 level (2-tailed).

Annex 6. Laws on civil services and civil servants in some states in Central and Eastern Europe

No.	State	Laws
	Romania	Status of Civil Servants, Law of 1999 Law no. 161/2003 on some measures ensuring transparency in exercising civil service positions and businesses, preventing and sanctioning corruption Deontological Code for Civil Servants of 2004 Law no. 340 / 2004 on Prefect and Prefect institution Government Decision no. 522/2007 on the civil servants' professional record Emergency Ordinance no. 56 / 2004 on creating the special status of the civil servant, called public manager Decision no. 1344 / 2007 on the rules of organization and operation of the discipline committees Decision no. 611 / 2008 for approving the rules on organization and development of civil servants' career Government Decision no. 553/2009 on measures concerning the registry of civil service positions and civil servants Law framework no. 330/2009 on unitary remuneration of the staff paid from public funds Order of NACS President no. 547/ 14.04.2010 on professional examination of civil servants from the reserve corps of civil servants
	Bulgaria	Civil Servant's Code of Conduct, December 2000 Civil Servant Act, publ., SG, No. 67 1999, last amended—SG, No. 110 2001 Regulation for the Administrative Service (mod. – SG, issue 47/2008, valid from June 1st 2008), approved by a Government decree № 246 from Sept. 13th 2006. (mod. SG, is. 78/26.09.2006, ann. is. 47/20.05.2008)
	Republic of Moldova	Law on civil service and status of civil servants no. 158-XVI, 04.07.2008 Law on conflict of interests no. 16-XVI , 15.02.2008 Law on Code of Conduct of the civil servant no. 25-XVI, 22.02.2008
	Republic of Macedonia	Law on Civil Servants, 2000 Codes of Ethics for Civil Servants of 2002 Regulation of June 25, 2004 on Means and Procedure of Evaluation of Civil Servants Regulation of October 4, 2005 on the Criteria and Standards Procedure for the Selection and Employment of Civil Servants Law on the Civil Service
	Republic of Belarus	Law on Civil Service, 2003
	Greece	Code of Civil Servants, Law 2683/1999
	Republic of Croatia	Act on Civil Servants and Civil Service Employees from 2001 Civil Servants Act, 2005 Civil Service Training Plan, 2008

No.	State	Laws
		Law on Civil Service Employees in Local and Regional Self-governments, 2008 Code of Ethics for Civil Servants Law on Civil Servants and Employees and on the Salaries Regulation on job titles and complexity coefficients in the civil service Regulation on jobs and special working conditions in the civil service Collective Agreement for Civil Servants and Civil Service Employees Draft Proposal of the Act on the Salaries of Civil Servants
	Republic of Slovenia	Code of Conduct for Civil Servants, 2001 Public Sector Wage System Act, No. 430-03/02-17/3 Ljubljana, 26 April 2002-06-29 Civil Servants Act, No. 020-05/98-20/8 Ljubljana, 11th June 2002
	Montenegro	Law on Civil Service and State Employees, 2004 Regulation on Allowances and Other Incomes of Civil Servants and State Employees (adopted in 2005) Amendments to the Law on Salaries of Civil Service and State Employees (adopted in December 2007) Law on Preventing Conflict of Interest, 2008 Regulation on Supplements to the Salary of Civil Servants and State Employees
	Ukraine	Law on Civil Service, 1993

Chapter 2
Research Report 1.1

COMPARATIVE STUDIES ON THE ADMINISTRATIVE CONVERGENCE REVEALED BY NATIONAL STRATEGIES OF ADMINISTRATIVE REFORM IN SOME SOUTH-EASTERN EUROPEAN STATES

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Introduction

The evolution of the European Union construction and enlargement introduces new concepts to the specific terminology. These concepts systematically describe and bring together the institutional and normative mechanisms aimed to sustain this extensive process.

Government and public administration take quickly the pathway, not without obstacles, from concept to reality. The pathway characteristics refer both to the European and to national elements, permanently merging and its complexity is superior to many processes and phenomena specific to a United Europe.

Concretely referring to the European administration, it might be seen as a system of European level institutions and structures. This approach is currently restrictive since the European administration actually describes a growing process aiming at unanimously accepted as European set of values and standards. This process's philosophy embodies the so called "Europeanization" of the national administrations[5].

Therefore, European administration will be structured as a combined multipolar system and its subsystems will be national administrations and their connections are founded, on the one hand, on the European Community law, and on the other, respecting the sovereignty, the specificity, the traditions and the national experiences.

The exact details of this process are hard to define since in the public administration domain there is no acquis communautaire. Therefore, there is no law transposed into domestic legal provisions within the EU Member States, with some exceptions concerning the European funds management, public procurement etc. In this context, national administrations are

[5] We can find a synthesis of the "European administration" sphere and content in Nedergaard (2007, 7-29) and Matei and Matei (2010, 11-18).

evaluated according to expressed criteria of "administrative and juridical capacity to put in practice the acquis communautaire". This creates serious difficulties due to diverse national specificities of the European Union states' administrations and to the lack of a model or of some guiding criteria for the public administrations reforms in the candidate states.

Treaties and other European documents contain a number of provisions aimed to promote and sustain the good governance and European administration, underlining the right for a good administration, the compliance with subsidiarity and proportionality principle in order to establish the European Union competences.

Some concepts have greater frequency in specific literature and analysis. Among them we mention: *European Administrative Space*, European administrative *convergence* and *administrative dynamics*, as well as the "old" public administration, the New Public Management (NPM) and *Europeanization*, without which we won't be able to understand the mechanisms and the connections of the European administration evolution.

At a first glance, the *administrative convergence* is a clear, agreed upon and understandable concept, but the convergence towards a common model implies a variability and disparities reduction in the administrative agreements (Pollitt, 2002, 472).

Noting the complexity of this mechanism, without which the *European administrative space* operationalization is not possible, Pollitt (2002) draws attention on the difficulties concerning the approach and introduction in the public administrations of similar practices, given the sustainable differentiation conditions in the public management reform. Continuing these ideas, Olsen (2003) discusses two types of hypothesis that influence the convergence towards *European Administrative Space*. These hypotheses are competing or complementary and are identified by: "global convergence" versus "institutional strength" (Olsen, 2003, 1).

These approaches are valid for a general convergence model. When we talk about European administrative convergence, we can mention other arguments derived from construction and enlargement process of the European Union.

In order to maintain the general context, recent evolutions highlight for the public administration development two generic models that can interpret its current development: the "classic" or weberian one and the "New Public Management" (Matei, 2001, 62-64, 139-153) that, a favorable can associate a paradigm of change from "old public administration to NPM (Dunleavy and Hood, 1994, 9-10). Regardless the standard, NPM is in contrast with the idea of a unique European *administrative convergence*. Otherwise, NPM states that this convergence is global or at least common to many countries. NPM implies "a rather inevitable change in time and this change represents the progress towards a more advanced administration"(Osborne and Gaebler, 1992, 328).

In this new framework, it can be said that the vision concerning the *global convergence* definitely competes or, in the most favorable case is supplemented by the *institutional strength*[6]. The fundamental assumption is that two probable phenomena, such as enlargement and convergence speed in Europe and the rest of the world, shall continue being accompanied by a variety of administrative models. Moreover, both models, the classic and NPM one,

[6] J.G. March and J.P. Olsen can be considered its promoters through their works on institutional rediscovery, democratic government or institutional dynamics, published at New York, Free Press between 1989-1998. Moreover, N. Flynn and F. Strehl also approached this subject in their work concerning public sector management in Europe published in 1996 at Prentice Hall.

describe the administration as a mean for an objective goal: a branch of government controlled by legislative and juridical institutions or by external circumstances.

Quite the opposite, the hypothesis of institutional strength assumes that the administrative institutions are strong actors, through the promotion of their own public policies and the administrative change. Furthermore, public administration is a collection of institutions, generally autonomous, with their own identity, traditions and changes.

In conclusion, *global convergence* is interested in whether the administration, in a free context, is a technical activity with the best solutions, and if its global environment is constantly dominant. *European administrative convergence* tracks if the most important context is the European one, dominant both within the administration, but also within its environment.

Unlike that, the *institutional strength* interferes when the context is not dominant and the administration, different from other environments or other established agreements, has the same autonomy level.

An important problem for the convergence distinguishes between attractiveness, in which case the convergence appears in the conditions of a model existence, a broad model considered to be superior, and constraints where the model is preferred by a winning coalition or dictated by others.

Europeanization represents a process specific to the European integration. It captures, among others, its impact on national administrations. Peters (2000) and Page (1995) talk about the connection between the Europeanization process and the general tendency in the administration to switch from the traditional *government* model to the *governance* one, where the authority is vague and the agencies claim a multiple role, especially in the public policy domain.

Governance is generally approached as an alternative to the monolithic and hierarchical concept of government. Governance process is oriented towards horizontal networks. In the context of international cooperation, the governance is a reaction to the lack of traditional hierarchy.

The White Book of European Government defines governance as "rules, processes and behaviors affecting how powers are exercised at European level, particularly referring to the openness, participation, responsibility, effectiveness and coherence" (Schout and Jordan, 2004, 3).

The impossibility to exactly translate into Romanian the meaning of the two concepts determined us to use solely the term government assigning to it one of the meanings, according to the context.

Specialized literature and analyses claim that, through Europeanization, are being created the foundations for a systematic institutional framework that allows an analysis of the EU political-administrative structure's opportunity (Kaeding, 2004, 8).

Kassim (2000) analyzes the coordination of the utilization and implementation strategies of the EU policies within ten Member States. Other authors (Peters and Pierre, 2007) use the neoinstitutionalism concepts, referring to the sociological approaches and rational choice. Their results can be convergence or divergence towards a *national transposed model*, resulted from the adaptation and "gradual socialization of the EU system's norms and practices" (Harmsen, 1999, 84).

Sociological approach anticipates an *administrative structure of opportunity* in the national administration that brings close the national transposed model. Convergence is accomplished due to "the institutions that frequently interact or are exposed to development in time, to similarities within the organizational structure: processes, managerial philosophy, resources' allocation principles and substantive reforms" (Olsen, 1997, 161).

Rational choice approach, a *political structure of opportunity* of the EU Member States might affect the national transposed model. In conclusion, according to a consequential logic, Member States are expected to converge to a unique transposed model. The anticipated result is "a gradual convergence of national practices to more efficient measures […] on common problems" (Harmsen, 1999, 84). At this point, performance standards depend directly on the political structure of opportunity.

Administrative dynamic, through its content, tries to capture as close to reality as possible, the processes and social phenomena evolution in the public administration space, as well as the adjacent ones referring to strategic management, legislative process and the connections with all the other society subsystems.

Public administration itself, regardless the country, is hard to change. The structural, content or attitude changes can be convergent, if we admit the existence of a certain, not necessarily unique, model. In the situation of public administration traditional values abandonment or of replacement with other inadaptable to the realities or a country's social physiognomy ones, we can't talk about convergence.

In the transition period that characterizes Central and Eastern European states, the conceptions upon public administration are being changed and substantially redefined. "Traditional teachings become heresies: the administrative virtues are being reordered, the expertise is being reconsidered and new types of knowledge, abilities and training are being requested. The trust in institutions disappears or is in danger. Organizational structures, roles and cultures are considered illegitimate and new organizations are legitimized. Due to over time resistant tensions, any idea based on hegemonic aspirations and universality of certain concepts, highlights the critical notes refocusing the forces and searches for a new institutional equilibrium. In order to theorize, the administrative dynamics requests to all the other equilibriums to be sensitive and that, in reality, the administrations have political determinations" (Kaufman, 1956, 1059).

In the reform context that animated and still animate national administrations in the process of European integration, the political determinations are being transposed in the national reform strategies. They represent the general, normative and pragmatic evolution framework of the national public administrations towards values and quasi unanimous accepted standards in the European Union.

The present paper develops and describes through significant selected examples from older or recent EU Member States, the actual situation of the previously mentioned processes, focusing on administrative convergence.

The debate on this topic will go on long time from now, the European administration, as a finality of the convergence and other progressive administrative processes. At least for the moment it appears as a "curious hybrid resulted form the continuous interaction between supranational and national" (Kassim, 2003, 142).

Chapter 1. Reform, convergence and other adjacent European processes

1.1. Concepts' delineation

The term "convergence" comes from the French "convergence" and refers to: heading to the same point, figuratively, to the same goal[7]; focusing towards the same goal; the merging trend[8].

The convergence is a dynamic process which is based on the application of socio-economic policies designed to reduce the disparities between regions and countries in a given space. It is completed mainly by applying some structural policies in order to obtain certain economic or social growth parameters emphasized in peripheral regions (named as such due to factors' endowment and the economic performance resulted after their use and not because of the geographic location). These peripheral regions passed through economic decline or fail to achieve the economic performance of the area they belong to[9].

Another convergence definition is the one related to the increasing similarities and economic performance of regional and national economies within a given space.

Frequently, the convergence is seen as a precondition for integration. As long as the structures of creation and implementation of policies converge, the integration process, its strategies and the creation of common, functional institutions are easier achieved.

The term "reform" comes from the French "réforme" and defines "the change made on a system (or organization) with the aim of improving"[10]. In a broader sense, "reform" can be defined as the limited "political, economic, social, cultural transformation or structure of a work status, to achieve improvement or progress; change within a society (which does not change its overall structure)[11]. Therefore, the term refers to "change", a change for the better, and a desirable change. Generally, a reform requires remodeling something that stops working; it involves a higher or lower level of radicalism[12] and the use of certain methods in order to achieve objectives.

Public administration reform or the administrative reform includes: reorganization of the public sector issues, such as institutional structure (the way the ministries, agencies and organizations are managed), the relationships established within the administrative system and the public sector activities, their organization and coordination. Public administration reform is based on empowering local communities' autonomy through decision-making autonomy, as well as through financial and property one, at the same time as the actual decentralization process activation and the compliance with subsidiarity principle.

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[7] Romanian Academy, 1998, Explanatory Dictionary of Romanian language (in Romanian), „Iorgu Iordan" Linguistic Institute, Bucureşti: Univers Enciclopedic.

[8] International Letter, 2004, The New Explanatory Dictionary of Romanian language (in Romanian), Bucureşti: Litera Internaţional.

[9] Funar, S., Luţaş, M., 2005, *Corporate Governance – element of convergence in the Romania's EU accession process* (in Romanian), Romania in the European Union. The convergence potential, Supplement to the Theoretical and Applied Economics journal.

[10] Source: Dictionary of Contemporary English, third edition, Longman, 2001.

[11] Source: Online Dictionary, http://www.dictionare-online.ro/reforma.htm

[12] J. Halligan, New public sector models: reforms in Australia and New Zealand, 1997, p. 17-46, in J.-E. Lane, Public sector reform: rationale trends and problems, London, Sage. Halligan argues that there are several levels of reform: first rank reforms that adapt and adjust accepted practices; second rank ones adopt certain methods, the third rank ones refer to ideas exchange which includes general objectives that guide the action.

Our research associates concepts such as: *Europeanization* and *integration*. The concept of "Europeanization" knew a wide approach in the context of EU integration studies. One of the first (and frequently quoted) Europeanization definitions belongs to R. Ladrech[13]. According to him, the *Europeanization* is an incremental process, focused on the Community economic and political dynamics integration to the national logic of public policy generation. The author explains through the key phrase "incremental process" the changes in time of the EU membership costs.

Europeanization defines the change occurred on the national political system due to European influence ("national" refers to the European Union Member State and "European" to the Community)[14]. Therefore, when speaking about Europeanization we bear in mind the national change caused by European integration.

"Integration" refers to the economic and political relational process between Member States within the Union, under the pressure of the EU rules creating a supranational decision center, based on delegation of authority[15]. V. Schmidt[16] suggests that while European integration includes the design and formulation of the European policies at Community level through interactions between national and infra-national actors, the Europeanization involves the study of the impact of EU policies on internal structures of a state. Furthermore, S.S. Andersen[17] considers integration as the amount of processes of creating Community's institutions and policies, whereas the Europeanization as the differential variation of the national impact of integration.

European integration must not be confused with the state's accession to the European Union. If the accession occurs at a pre-established and determined moment and embodies the achievement of the official membership status, the integration stands for a long process based on the networking with other Member States and the Community institutions and structures. We can then speak of the market economy existence, of creating a stable economic and monetary environment and of adjusting administrative structures.

The concept of Europeanization may be associated with the public policies' transfer one[18]. This association raises certain issues regarding the concept of Europeanization because it assumes the clear distinction between the influence of European integration/European decisions and those sent to national level. Such a link between Europeanization and policy transfer helps to identify the trades not necessarily in linear diffusion of EU rules but rather in

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[13] Ladrech, R. 1994. „The Europeanization of Domestic Politics and Institutions: The Case of France", Journal of Common Market Studies 32 (1), p. 69.

[14] Vink, M., 2002, What is Europeanization? and Other Questions on a New Research Agenda, Paper for the Second YEN Research Meeting on Europeanization, University of Bocconi, Milan.

[15] L. Lindberg 1963 and E. Haas 1968 in Bomberg, E. / Peterson, J. 2000. Policy Transfer and Europeanization: Passing the Heineken Test?, paper for the 50th Annual Conference of Political Studies Association – UK, April 2000, Bărbulescu, I. Gh., 2005, European Union. From economic to politic (in Romanian), Bucureşti: Tritonic, p. 35; Dinu, M. et al. 2005. European model of integration (in Romanian), Bucureşti: Editura Economică, pp. 7-8; Dinu, M. et al. 2006, Fundament and coordinating economic policies in European Union, Bucureşti: Editura Economică, p. 28; Andersen, S.S. / Sitter, N. 2006. „Differentiated Integration: What is it and How Much Can the EU Accommodate?", European Integration, Vol. 28, nr. 4, Routledge, pp. 315-318.

[16] Schmidt, V., 2003, „Europeanization of National Democracies: The Differential Impact on Simple and Compound Polities", *School of Public Policy Working Paper Series,* WP4, University College, London.

[17] Andersen, S.S., 2004, „The Mosaic of Europeanization. An Organizational Perspective on National Recontextualization", *ARENA Working Papers,* WP 04/11, Oslo: Centre for European Studies.

[18] Sabine Saurugger, Yves Surel, 2009, „Au-delà de la convergence: instruments de résistance dans l'Union européenne", Manuscrit auteur, publié in 10e Congrès de l'Association française de science politique (AFSP), Grenoble: France.

a complex process of exchanges and transactions determined by institutional and political constraints at national level. Such a perspective aims to determine the main instruments used by actors in order to prevent the implementation of Community decisions. Thus, European integration indirectly fostered the development and institutionalization of new veto players that prevent or transform the transposition and application of Community law juridical processes.

1.2. European integration – an important factor for administrative convergence

Specialized works on convergence or its lack initially starts from an analysis of the level of conformity between European law and their national transpositions. The directives and regulations were considered relatively apolitical and the transposition effectiveness was considered in terms of administrative organization and legislative procedures. Works on convergence insist on the adaptation differences between domestic political systems. These differences have become a dependent variable when the research began to consider the means of mediation between national and European regulations. Studies in this regard start from the assumption that the compatibility level between a European measure and the corresponding public policy depends on the political structures at national level. The longer these structures (included in the historical, institutional, economic, social and cultural mechanisms) and national regulations are similar to those imposed by the Community level, the adjustment is easier. In contrast, the greater the difference is, the more a non-convergence is to be observed.

Initially, convergence studies have focused on the transposition of directives, hence on infringement procedure, procedure applied for the failure to transpose EU rules situation[19].

A more systematic research of the compliance in the European Union was conducted by Gerda Falkner and her team.[20] Authors underline that if three conditions are necessary for successful implementation of a European Standard (namely, the implementation capacity, the ability to exert pressures, information availability), two pathways can lead to lack of implementation: inertia (the implementation structure is paralyzed, associated to an absence of social activism) and obstruction (in which case there is a strong opposition and where it notes the existence of strong veto points.

Falkner's study shows that the lack of convergence occurs in the following situations:

Non-convergence	
Opposition (intended)	*Incapacity (unintended)*
Opposition to certain contents;	Different interpretation;
Opposition to Community method of decision (qualified majority, social dialogue);	Administrative problems;
Opposition to national decision-making mode or method of transposition: parliament, social or regional partners; inter- or intra-ministerial conflicts.	Political instability;

[19] This category includes authors such as: La Spina et Sciorino 1993, Pridham et Cini 1994, Börzel 2000, Duina 1997, Knill et Lenschow 1997, Kassim 2001.

[20] Gerda Falkner, Oliver Treib, Miriam Hartlapp and Simone Leiber, 2005, Complying with Europe, EU Harmonization and Soft Law in the Member States, Cambridge University Press, New York.

Surel and Saurugger identify in the above quoted work, based on this study, four mechanisms that can occur when it comes to transposing phase: the legislative one, the national policy one, the dead letters and negligence one.

Many studies show that EU membership entails certain political-institutional changes and that these changes tend slowly to a certain convergence, towards a common model, in response to the Union challenges. Such convergence can be observed in the field of regionalization, flexibility, sector boundary, administrative coordination and the parliamentary influence reduction[21].

In contrast to the convergence theme, other studies have highlighted the persistence of traditions and national constitutional structures[22]. It has been demonstrated that national implementation of EU legislation depends on the level of perceived pressure to adapt in each Member State. Adaptation pressure increases if the EU rules affect institutional arrangements that are closely linked to national administrative traditions, specific to each state[23]. EU's impact on national administrations is only one of the factors influencing institutional change, other factors being underestimated and neglected by studies focusing on Europeanization.

This difference of opinions raises a certain question about the existence of this convergence, namely: do the candidate countries converge to a particular practice, a common model or is the Union influencing national structures and if yes, to what extent?

It is easy to develop an argument in favor of creating an institutional convergence in the accession process. Firstly, the democratic transition in former socialist block countries involved copying models of institutions in countries of Western Europe. Secondly, candidate countries have relatively little time to redefine local institutions under increasing pressure caused by the attempt to follow the rules imposed by the Union and to assimilate, in the same time, the influence of international agencies and other similar bodies. Thirdly, since the states are more interested about the accession than the Union, the Union has a strong negotiating position, being able to establish unilaterally rules and procedures. Preparing for accession means to compulsory adopt the entire set of European norms without the State's ability to influence this set of rules that they must adapt to.

EU governments have adapted to the decisional process model proposed by the EU mainly through the Phare program mechanism, which generated a convergence of institutional structures. Another perspective concerns the political cohesion fostered by European integration. The emergence of regions as political or economic actors is easily argued to represent a consequence of Community influence, although we still can not speak about the existence of such a situation except for Member States. Candidate countries are not yet affected by this aspect of administrative reform. Regional changes for the countries of Central and Eastern Europe have occurred only in the late '90s. A cause of this phenomenon is the strong influence of political criteria, the deficit of professionalism, administrative bodies'

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[21] Rometsch, Dietrich, and Wessels W., 1996, The European Union and Member States: Towards Institutional Fusion? European policy research unit series, Manchester: Manchester University Press in Martin Brusis, 2001, Between EU Eligibility Requirements, Competitive Politics and National Traditions: Re-creating regions in the Accession Countries of Central and Eastern Europe, Paper for the Bi-annual Conference of ECSA, Madison 30 May-2 June 2001, Panel on Europeanization and Domestic Change in Central And Eastern Europe, p. 4.

[22] Schwarze, J., 2000, Die Entstehung einer europaische Verfassungsordnung. Das Ineinandergreifen von nationalem und europaischem Verfassungsrecht. Baden-Baden: Nomos, in Martin Brusis, *op. cit.,* p. 4.

[23] Knill, C., 1998, European Policies: The Impact of National and Administrative Traditions. Journal of Public Policy, 18 (1): 1-28.

limited autonomy together with the lack of detailed laws and rules and the discretionary application of existing ones. All these are traces of previous regimes.

Therefore, the integration is different from one state to another, being influenced by internal structures and their flexibility. This differentiated integration is widely examined in the literature[24] and is considered an anomaly from a federalist perspective[25]. Thus, it is considered that those who remain behind with the integration process will eventually reach the level of other states. This would be a matter of time. From the same perspective, the permanent exceptions caused by lack of political will or other reasons have no place in the process of gradual federalization of Europe.

From a neo-functionalist perspective, the differentiated integration appears as a "failure of integration", an indicator of "gear" insufficiency and of the consensus absence among national elites[26].

Similarly, but more recently, Curtin (1995) considers differentiated integration as an attack on the European constitutional order in view of recent exceptions that were granted as a result of deliberate policy choice rather than as a consequence of the failure to achieve socio-economic criteria (e.g. UK and Denmark have not adopted the euro) [27].

From a liberal-intergovernmental perspective, differentiated integration is regarded as a mean to pursue national interest, taking in the same time into account any other decision taken at European level[28]. Thus, differentiated integration refers to establishing a center of Europe, while Member States with a particular position may develop their hegemony. Therefore, one can easily explain why a Member State would not allow others to lead the integration process to aims which it does not support and uses for this purpose, the veto right, a procedure against which has fought a deliberate eradication battle.

From the theory of goods perspective, the integration progress in some areas of the Member States can be explained by a combination of three factors: a) the initial intention of the actors, b) flexibility of institutions, c) the area in question, from the perspective of public goods theory. According to Kölliker, while the first two factors- initial political preferences of Member States and the legal possibilities of differentiation-explain why some countries overcome others in terms of integration, the public goods theory helps to understand (and perhaps anticipate) the fact that some Member States from outside come into position to join some flexible arrangements and not others[29].

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[24] Phillippart, E, Sei Dhian HO, M., 2000, The Pros and Cons of „Closer Cooperation" within the EU. The Hague: Scientific Council for Government Policy, and Schrauwen, A. A. M., 1999. Flexibility in Constitutions: Forms of Closer Cooperation in Federal and Non-Federal Settings. Amsterdam: Hogendorp Centre for European Constitutional Studies.

[25] Pinder, J., 1986, „European Community and Nation-State: A case for Neo-Federlism?", *International Affairs, 62 (1), pp. 41-54, in Sepos, A., 2005, Differentiated Integration in the EU: The Position of Small Member States,* European University Institute, Robert Schuman Centre for Advanced Studies, EUI Working Papers, No. 2005/17, Badia Fiesolana, San Domenico de Fiesole (FI).

[26] Haas, E., 1975, The Obsolence of Regional Integration Theory, Berkeley CA: University of California Press, in Sepos, A., *op. cit.*

[27] Curtin, D., 1995, The Shaping of a European Constitution and the 1996 ICG: Flexibility as a Key Paradigm, Aussenwirtschaft, 50, pp. 237-252, in Sepos, A., *op. cit.*

[28] Moravcsik, A., 1993, „Preferences and Power in the European Community: A Liberal Intergornamentalist Approach", Journal of Common Market Studies, 31 (4), pp. 473-524.

[29] Kölliker, A., 2001, „Bringing together or driving apart the Union?, Towards a Theory of Differentiated Integration", West European Politics, 24 (4), p. 126.

Differentiated integration was one of the issues discussed at the Intergovernmental Conference in 1996-1997. However, the issue was present among Member States prior to that date, given the differentiated objectives that exist between Member States or between specific regions within them. For this reason the treaties provide the possibility of certain differences in the way the rules are applied. Thus, special protocols have been attached to treaties, special provisions were added to certain acts or under the form of variations of directives' implementation, and delays were accepted for the implementation deadline[30].

Another debate focused on the integration difference aimed at the Economic and Monetary Union. In this case the assumption was that all Member States should strive to achieve a certain performance and policy convergence. When it became clear that not all Member States were capable or willing to obtain such convergence, alternative measures have been taken to support the project. Thus the exchange rate mechanism was launched and European monetary system with full participation of the strongest economies, except UK. The Treaty on European Union specifies the conditions of creation of the Economic and Monetary Union with fewer members than the EU members.

Moreover, differentiated integration has been associated with Germany's position as a European power and with the special relationship it has with France, the two forming the so-called "axis" or "engine" of integration. It is known that the two countries have coordinated their policies over time in order to hasten the integration agenda[31], although they never intended to create a formal governing centre. Together with enlargement and increase of Member States' number, the problem reappeared with the suggestion of building a multi-layer system, under the form of concentric centers around the governments interested about integration. The discussion became more intense in light of the establishment of the Europe of 27 states, when the fears of creating a larger but weaker EU with institutions unable to function under the weight of membership widened. In this context, several initiative groups have been created. They have become more attractive and received more legitimacy bearing in mind the argument that it will be possible both an extension as well as a deepening of the integration process.

Differentiated integration has been defined in different ways over time, under the impact of several criteria. Stubb[32] categorizes into three distinct forms the differentiated integration: *multi-speed*, *variable geometry* and *à la carte,* forms that differ in terms of consistency, time, space and domain.

Multi-speed integration is defined as the integration method in which pursuing common objectives is made by a powerful group of Member States which are both able and also willing to go as far as possible with the implementation status of certain policies. The assumption is that other states will "catch up" too. In other words, the perspective of multi-speed integration means that integration in which the member countries agree to pursue the same policies and actions implementation, not at the same time, but at different moments, periods. Transition periods and temporary exemptions, often given at the same time with the conclusion of accession agreements, are the clearest examples of this mode of differentiated integration. These times are very long, sometimes up to ten years, but they are never unlimited.

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[30] Elhermann, C. D., 1984, „How flexible is Community Law? An unusual approach to the concept of „Two Speeds", Michigan Law Review, 82, pp. 1274-1293.
[31] Hendriks, G., 2001, The Franco-German Axis in European Integration, Cheltenham: Edward Elgar.
[32] Stubb, A., 1996, „A categorization of differentiated integration", Journal of Common Market Studies, 34 (2), pp. 283-295.

Integration that takes into account variable geometry (space) model refers to differences within the same integrative structure, differences that allow permanent and irreversible separation between more powerful and the less developed states. The variable geometry integration type illustrates situations where Member States opt for a deeper integration than for that obtained within the borders of acquis communautaire. One example in that sense is the Schengen agreement, where a conglomerate of states aims to achieve a deeper level of integration within a separate integrative unit.

The third form of differentiated integration, *à la carte,* allows each Member State to choose the area they would like to be involved in, while maintaining a minimum number of common objectives. This perspective focuses on the subject, on specific policies' areas. All countries may firstly choose a suitable area on which to make a substantial contribution, be it social, monetary or the defense policy. This comes in contrast with multi-speed version that defines common objectives for Member States that they strive to accomplish, according to their capacities, and also in contrast with variable geometry that institutionalizes the differences between Member States as if they seek to build a space between different integrative units or forms of integration[33]. À la carte examples of integration can be found in the terms set by the Maastricht Treaty. Both Denmark and UK have received concessions from their partners in Economic and Monetary Union. These clauses were not temporary exemptions but they gave both countries the right to remain permanently outside the EMU. Other examples of situations where states have opted to keep outside a policy established at EU level are the Social Protocol offices of Great Britain (Protocol 14). Member States agreed on social policy by signing a special protocol among them, given the British position regarding national sovereignty in areas such as social policy. This was when the Community has sought a fragmented solution, à la carte, for a whole range of regulatory social policy[34].

The issue of differentiated integration and of differences between states concerned the Member States since 1996-1997, since the intergovernmental conference, where several countries, especially small ones, opposed to Union fragmentation on grounds of integration skills, and to the idea of inequality creation and institutionalized differences between the EU member states [35]. These concerns were resumed also at the intergovernmental conference in 2000 together with the negotiations accomplishment for the Treaty of Nice; and also in 2003 during negotiations for the draft Treaty establishing a Constitution. Integration differentiates very much from the perspective of the three pillars also. Thus, if under the first pillar, the Member States are somehow equal, given the strong influence of Community institutions, under the other two pillars things are slightly different, since institutions do not have the same impact on the strengthened cooperation initiatives and this does not favor at all the position of small states. As part of the second pillar, the small states situation is the most alarming because the institutions have less influence. Thus, the interested states may submit a request to the European Council to authorize cooperation. Commission expresses its opinion primarily on the compliance of cooperation proposal with the EU policies. Unlike the first pillar where the Commission can propose legislation, the Parliament consents. And contrary to the third pillar, where the Commission may be involved in submitting a proposal, the Parliament can be consulted. In the second pillar, the Commission and the Parliament should

[33] Sepos, A., 2005, *Differentiated Integration in the EU: The Position of Small Member States,* European University Institute, Robert Schuman Centre for Advanced Studies, EUI Working Papers, No. 2005/17, Badia Fiesolana, San Domenico de Fiesole (FI).
[34] Stubb, A., 1996, „A categorization of differentiated integration", *Journal of Common Market Studies,* 34 (2), pp. 283-295.
[35] See the White Book on the 1996 Intergovernmental Conference, Volume II: Summary of position on EU member states in terms of the 1996 Intergovernmental Conference, European Parliament, March 29, 1996.

only be informed of how the cooperation proposal evolves. This transforms small states into ordinary observers facing the strengthened cooperation initiatives undertaken by large states.

Thus, creating directorates, power groups at the second pillar level it is probably the biggest threat to small states[36]. Keukeleire suggests that foreign policy belongs, by its nature, to a limited number of decision makers at national level. This aspect is maintained at Community level also. In addition, major countries like France, Germany have a different status at international level in comparison with small states in terms of economic, financial and especially military power, and in terms of influence within international forums such as the UN Security Council, NATO and others. The actions from the defense policy level, the contact group in Bosnia in the years 1993-1994, as well as the diplomatic action to stop building nuclear weapons program in 2003 represented precise moments in which the power poles within the Union showed up, namely France, Germany and Great Britain. Of course, these three do not form and will not officially form an official powerhouse within the Union. They often adopt different positions and have different perspectives on some common situations. The idea of convergence has been much discussed and quoted in the literature despite evidence of national differences. Does the concept of convergence have an intrinsic value? Could its value exist regardless the administrative practices and regardless the reforms that actually took place?

Progressively, the intention to reduce spatial disparities constituted the essence of European regional policy. The emergence of European Development Fund in 1975 and the reform of regional policy are clear evidences of European intention to reduce the differences between regions. And the actual course can be translated into European policies committed to developing regions in difficulty.

European integration has inevitably raised the question of development and modernization of the state. This dynamics of development is very important in terms of full adoption of the acquis communautaire and in terms of adapting to the demands imposed by the management of European funds.

The difficulty and the slowness with which East European public authorities have promoted the status of civil servant and civil function can be explained by the fact that the Union does not provide explicit support on this matter to new member. Although the criterion of good governance appears in 2000 Agenda under the same title as the common market or democracy, the Union has never provided more than just guidelines, requirements in terms of predictability, transparency, accountability and effectiveness. Therefore, the absence of a precise framework, the national and local authorities had every incentive not to change their own structure[37].

1.3. The European Administrative Space – reforms' standard for national public administrations

At European level there were not settled implementation rules at the level of Member States with regard to public administration. We only have instructions, directions to follow, principles that guide national authorities towards administrative convergence. Common

[36] Keukeleire, S., 2003, „The Case of a «Directorate» in the CESDP", in A. Pijpers, (ed.), „On Cores and Coalitions in the European Union: The Position of Some Smaller Member States". The Hague: Netherlands Institute of International Relations, „Clingendael".

[37] Bafoil, F., Union Europeenne: Adapter la politique de cohesion, „La France et la Pologne dans l'Union Européenne. Saurons-nous faire avancer l'Europe ensemble ?", Warsaw, 8 September 2004.

principles of public administration between Member States of the European Union constitute the conditions of a *European Administrative Space.*

The legal-administrative field, the *space* continues to be perceived as a metaphor for European integration, and thus of international interaction. For example, in 1991, C. Bennett identifies at the Community level, the states' tendency to compare through cross-national dialogue the institutional models and to cooperate for legislative harmonization[38]. One year later, from the Single European Act (1986) and its effects perspective, T. Toonen projects the image of a "Europe of government", a space that exploits pluralism and diversity[39]. In a strictly legal approach, C. Nizzo notes that the state administrative structures have exceeded their limits imposed by traditional valences of sovereign territory and became "communicating realities" in a "common space"[40]. Following the same line, H. Hofmann[41] talks about the un-territorializing the public power exercise of the Member States and about the vertical and horizontal opening of national legal systems towards EU influence "in a space of interaction". R. Nickel proposes the concept of integrated governance in a common administrative space[42], and Trond J. alleges the existence of interconnected European Administrative Spaces[43].

European Administrative Space includes a set of standards for common action within public administration as defined by law and reinforced by practices and responsible mechanisms. Candidate countries should consider these standards in the process of developing public administrations. Although the European administrative space is not part of the acquis communautaire, it should nevertheless serve as a guide to candidate countries' reform of government. In European Union Member States, these standards, together with the principles established by the Constitution, are required or submitted by a number of administrative laws such as administrative procedural acts, freedom of access to information or public service laws.

Defined by the European Court of Justice, the most important principles of government, common to Western Europe, comprise the following groups: 1) trust and predictability (legal certainty), 2) openness and transparency, 3) responsibility, 4) efficiency and effectiveness.

Regarding the first set of principles, the law implies a changing mechanism for trust and predictability. This assumes the "government by law". In essence, the law provides that the government must carry out their responsibilities under legislation in force. Public authorities arrive at certain decisions respecting the rules and general principles, applied impartially to any addressing with a request person. The problem occurs in terms of neutrality and generality of application (non-discrimination principle).

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[38] Bennett, C. 1991, „What is Policy Convergence and What Causes It?", *British Journal of Political Science,* vol. 21, nr. 2, pp. 215-233.

[39] Toonen, T.A.J., 1992, „Europe of the Administrations: The Challenges of '92 (And beyond)", *Public Administration Review*, Vol. 52, no.2, pp. 108-115.

[40] Nizzo, C., 2000, National Public Administrations and European Integration. SIGMA Paper, p. 2. According to the principles of subsidiary and cooperation, Member States' administrations are asked to apply EU rules, acting therefore as a genuine European administrative system. For more details please see the Deutsche Milchkontor (205/82 - 215/82 [1983] ECR, p. 2633) and Scheer (30/70 [1970] ECR, p. 1197) cases.

[41] Hofmann, H., 2006, *Mapping the European Administrative Space*, paper presented at the Connex Thematic Conference "Towards a European Administrative Space", London, 16-18 , November 2006.

[42] Nickel, R., 2006, "Participatory Governance and European Administrative Law: New Legal Benchmarks for the New European Public Order", *EUI Working Papers Law* nr. 2006/26, European University Institute, Florence

[43] Trondal, J. 2007, "The Public Administration turn in Integration Research", *ARENA Working Papers*, nr. 7, p. 9 et seq.

Another issue related to legislation notion is that of legal competence. Public authorities may decide only on matters under their legal jurisdiction. In this context, competence means the power to decide, legally and expressive, on an issue rose by the public interest. This not only authorizes the respective person to decide, but it also obliges it to take responsibility for this. A competent public authority can not give up this responsibility. The notion of competence is strictly defined, so that an unauthorized person decision (located outside the legal jurisdiction) is invalid and will be invalidated by any court[44].

A principle that calls for trust and predictability is the legal principle of *proportionality*. This means that administrative proceedings should result proportionally to the process and its legal completion, not depriving the citizens of any of the aspects that facilitate achieving the proposed and legally correct aim. Proportionality is closely related to what is reasonable. Moreover, it also means that it is illegal to apply the law only when it creates an advantage, unintentionally omitted by law.

A principle that calls for "government by law" is that of procedural fairness[45]. This means procedures to enforce the law clearly and impartially, to pay attention to social values such as respect for people and their dignity protection. A practical application of procedural fairness is the principle which states that no man shall be deprived of his fundamental rights without having been notified in advance and heard in an appropriate manner.

Deadline is one of the factors that support trust and predictability in government. Delays in taking decisions or in finalizing administrative procedures may generate real frustrations, injustices or might negatively affect both public and private interests. Delays may result from some inadequate resources or from the lack of a possible political settlement.

With regard to *openness and transparency*, openness suggests that the administration is willing to accept a poll from outside, while transparency means the openness degree in case of an election or a check.

Openness and transparency in public administration serve two targets. Firstly, they respect the public interest insofar as limited by the mal-administration[46] and corruption. Secondly, they are crucial for individual rights consideration to the extent necessary to provide reasons for administrative decisions, and therefore help stakeholders to exercise their right to request appeal.

An administrative document or a decision must be accompanied by a motivation. From this must follow the reasons which led to the final decision and also must show the correlation between those required and the legislation. Consequently, this reasoning should include facts and their record, as well as a legal justification. This document is very important in cases where a request of an interested party is rejected. In such a case, the motivation must clearly show why the records or arguments presented by the applicant could not be accepted.

As far as the *responsibility* is concerned, there is a distinction between responsibility and accountability. Thus, *accountability* means that a person or an authority must explain and justify their own actions. In the public administration law this means that any administrative

[44] SIGMA - Support for improved governance and management in the countries of Central and Eastern Europe, SIGMA-OECD 2 rue Andre Pascal 75775 Paris Cedex 16, France, on: http://www.oecd.org/dataoecd/22/44/39560474.pdf , accessed on 29.12.2009.

[45] This principle is recognized by European Community law. For more details please see: Essays in honor of Henrz G. Schermers (in Romanian), vol. II, Dordrecht, Boston, London, 1994, p. 487 ff.

[46] In the European Union is supposed that Ombudsman counteracts mismanagement.

body should be responsible for his acts before another administrative, legislative or juridical authority.

Responsibility implies also that no authority should be exempted from elections or verifications from other authority. This can be done by several different mechanisms, including the courts of justice, appealing to higher administrative bodies, by an official responsible for public opinion inspection. The inspection is made by a special committee or parliamentary committee elections. *Responsibility* is a tool helping to demonstrate if principles such as respect for law, openness, transparency, impartiality and equality before the law are respected. Responsibility is essential to strengthen values such as efficiency, reliability and predictability in public administration. A specific dimension of responsibility refers to efficiency in public administration performance. Recognizing efficiency as an important value for public service is relatively recent. As the state became the producer of public services the concept of productivity in government was introduced. Today, due to fiscal constraints in many countries, effective and efficient performance of public administration in providing public services to society is pursued more and more. Efficiency is characterized as a value consisting in maintaining a good reasoning between inputs and outputs.

A value that automatically derives is effectiveness. It consists in the safety that performance of public administration is moving towards the settled goals, solving legally public problems. Mainly, it consists in analyzing and evaluating specific public policies and ensuring that they are properly implemented by public administration and by civil servants.

In the more recent Western European constitutions, like that of Spain (1978), the efficiency and effectiveness of public administration have been reported as constitutional principles, together with other classical principles such as respect for law, transparency and impartiality. Also, public administration law often refers to economy, efficiency, effectiveness (known as the "three E") and compliance with law as the principles that should preside over public administration and the activities and decisions of public officials. EU law also provides for the need for efficient administration[47], having in mind especially the Community directives and regulations. This has forced several Member States to make changes in their domestic organization, in their administrative structures and decision-making arrangements, in order to effectively and efficiently support European legislation and also to ensure an effective cooperation between the European Community institutions.

The principles listed above can be found in public administration laws from all European countries. Although the public administrations of these countries are very old structures, they have continuously adapted to modern conditions, including joining the European Union, which itself requires an evolution.

Constant contact between officials of EU Member States and the Commission, the request to develop and implement the acquis at the reliable equivalent standards throughout the Union, the need for a unique system of administrative justice for Europe and the sharing of principles and values of public administration led to some convergence between national administrations. *This convergence has been described as European Administrative Space*[48].

[47] European Court of Justice, Case 68/81, Commission vs. Belgium (1982), ECR.153.
[48] SIGMA Papers, nr. 23, Preparing Public Administration for the European Administrative Space, OECD, Paris, 1998.

It must be taken into account that EU integration is a process of evolution (the principle of progression in the EU construction). This means that a country must demonstrate a sufficient degree of progress in order to satisfactory compare itself with the development level of Member States. Convergence level in 1986 (when Portugal and Spain joined the EU) changed in 1995 (when Austria, Finland and Sweden joined) and of course with other accessions too.

Chapter 2. Administrative convergence in the South-Eastern Europe

2.1. Convergence and reform – a causal relation

The EU accession does not involve clear action about the public administration because the acquis communautaire is not mapped in terms of administration. Due to the lack in specific methodological procedures, the accession generally involved the compliance of the three Copenhagen criteria.

In addition to the three accession criteria established in 1993 by Copenhagen Council (to demonstrate the ability to comply with the acquis communautaire, the ability to create a market economy and to respect some basic political principles such as the rule of law or democracy), the Madrid European Council (December 1995) brings the strong stance of the Community towards enlargement and highlights the need to create conditions for a gradual and smooth integration of candidate countries, through: development of a market economy, creating an economic and monetary stable environment and adjusting the administrative structures. The last reference mentioned above becomes, for doctrine, the fourth condition of membership, known as enhanced administrative capacity criterion[49].

It should be noted that the consolidated government is essential for the Union members. Quoting from SIGMA: "the link between European integration and public administration reform is strengthened when the enlargement approaches. Similarly, the European Commission put special emphasis on the ability of Member States' administrations to implement on time the European standards body (acquis communautaire), although such a requirement was never a matter of interest for previous enlargements"[50].

As mentioned before, sharing the principles and values of public administration led to some convergence between national administrations. Countries that joined the Union went through an extensive process of reform; the administration was also one of the areas subject to transformation.

Public administration reform has generally focused on:

- developing the capacity of public authorities and institutions to formulate and implement national and local policies compatible with the Community ones and to function on performance standards of the national administrations of other EU Member States,
- clearly defining the role of each structure within the administrative system, in order to determine a coherent institutional mechanism and to streamline decision making and the implementation of European standards.

[49] Diana-Camelia Iancu, "Europeanisation of public administration in Romania" (in Romanian), PhD thesis, Bucureşti, 2008.
[50] SIGMA. 1998. Preparing Public Administration for the European Administrative Space. SIGMA paper no. 23 CCNM/SIGMA/PUMA (98) 39, Paris: OCDE.

By applying this strategy, the public administration should identify within the inter-institutional relations, as well as within the relationship with citizens, through the following strengths: dynamism, expertise, professionalism, impartiality, incorruptibility, transparency and stability.

Priority directions of action should be:

- The proper application of the acquis communautaire, in parallel with the development of national and local policies, consistent with the Community ones;
- Increased attention to areas covered by the negotiated transition periods and training the institutions responsible for full implementation of the acquis communautaire, after periods of transition;
- Continue to implement the general principles of European Administrative Space on the legality, legal competence, predictability, openness and transparency, responsibility and accountability, efficiency and effectiveness in order to increase the quality of administrative act;
- Develop training action for civil servants in European affairs;
- Institutionalization of regular dialogue between the central government with regional and local ones in order to transfer best practice in implementing EU policies;
- Increasing the visibility of regional and local authorities in the European associations of regional and local collectivities.

The subject of administrative reform has become a constant for almost three decades in political discourse and each year brings new changes and new tasks for national services in trying to adapt them to Community's requirements[51]. The impact of integration on the administrative system of a Member State is somewhat limited because, as previously mentioned, the Union has no direct competences in this area. Nevertheless, although the administrative organization of Member States is upon their competences, there are ways to influence states that wish to become members of the Union.

The public function remained less affected by European integration since no Treaty mentions any Community competence in the field of national public positions. It is difficult to give a description and a definition of public administration in Europe[52].

We can say with certainty that at the Union level there are two types of public positions, two systems: the career type of civil service (closed), when the civil servant enjoys stability, and the lucrative system of the job type (open), when the valuable elements are the qualification level, ability and level of remuneration[53]. However, no Member State rigorously applies one of these systems of public positions.

The principles we have previously described establish, as mentioned before, a certain convergence among Member States as they serve as standards for measuring the degree of compatibility between national administrations. Therefore, their compliance may be considered as a precondition for accession but also as a way of measuring the administrative capacity of the state.

[51] Alexandru, I., "Administration and political power" (in Romanian), *Public Law Magazine,* no. 2, Bucureşti: All Beck, 2003, p. 1.
[52]Gf Braibant, G. „Existe-t-il un systeme europeen de fonction publique?", Revue Francaise d Administration Publique nr. 55, 1990, pp. 601- 618.
[53] Savenco, I., „Les Systèmes traditionnels concernant la fonction publique dans l'Union Européennee", p. 1.

The initial hypothesis is that the level at which these general principles inspire the activity of national public actors indicates a country's ability to adopt and implement the unvoiced acquis communautaire.

It seems that, for membership, candidate countries must meet the standards required by the European Union which implies updating, at acceptable levels, the administrative principles that relate to trust, predictability, responsibility, transparency, and efficiency.

As for the application and disclosing method of the OECD principles, the activity of the administrative authorities of the acceding states were constantly exposed to assessment by the European Commission.

The tendency to create a model of government was reveled also by the approval of White Charta of European Governance[54]. It outlined several principles which are essential and desirable to be applied in administrative work. They are: openness, participation, efficiency and coherence. In another opinion, governance structures should be based on four key principles: accountability, participation, predictability and transparency [55].

2.2. Administrative reforms in South-Eastern Europe

Many countries in Central and Eastern Europe rebuild their levels of public administration. Generally, this happens in connection with the preparation of EU membership and with the achievement of the necessary administrative capacity to implement Union law. Basically, the trend is to create regional administrative bodies empowered to participate in the management of structural funds. These bodies subsequently become the main tool for economic assistance when a candidate becomes a member.

From this perspective, resizing the regional level is an essential part of the Europeanization process by which the State administration is going. Meanwhile, their existence is necessary to establish an intermediate administrative level that links central autonomous government with local one. Both are subject to democratization process characteristic for political transition of the early 90s.

The issue of administrative reform in the countries of Central and Eastern Europe is reinforced by the fact that most countries in this area faced with socialist regimes and have strengthened administrative traditions. Generally they are expressed by a politicized bureaucracy, by the lack of a link between central and local government. Accordingly, the Union is directly interested in providing directions for policies guidance to such Member States that joined during previous enlargements.

Inefficiency, lack of expertise and corruption are just some of the old regime legacies in the countries of Central and Eastern Europe. Economic weaknesses have undermined the economic recovery in the region and often led to tense relations with the EU both in terms of incomplete implementation of the provisions and also in terms of delays in absorbing available EU funds. Administrative reform was thus a crucial factor for successful accession of candidate countries in terms of harmonizing national legislation with EU acquis and strengthening, therefore, administrative structures.

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[54] COM, 2001 (428) – White Paper on European Governance.

[55] Ahrens, J. 2001. "Governance, Conditionality and Transformation in Post-socialist Countries", in Hoen, H.W. (ed.): *Good Governance in Central and Eastern Europe: The Puzzle of Capitalism by Design,* Cheltenham: Edward Elgar, pp. 54-90.

The transition process characteristic for Central and Eastern European States since 1989 focused around two axes:

- Emphasizing certain economic values such as *competition*, *efficiency* and *budget constraints.*
- Power delegation by changing the limits of central power: *non-majority leadership*.

In the private sector the reform was made through privatization or at least by corporate government business and thus by reducing the role of government structures in economic system. This was materialized through independent central banks, financial markets, utilities and independent professions such as lawyer, pharmacist etc.

In the public sector three major trends can be recognized:

- Civil service reform measured by the numerous changes at the level of government officials and of the rules to which they obey;
- Creating agencies that took over, by delegation, certain functions of ministries. Agencies are not legally or financially assigned to ministries;
- A decentralization of broad public services for local and regional elected authorities[56].

Other drivers of reform were twinning programs and the takeover of good management models introduced according to benchmarking.

Administrative reform has progressed differently in each country. An important constraint and condition of reform envisages that all candidate countries must be unitary. Another feature of reform in the concerned countries has been fiscal decentralization. Fiscal autonomy of regional and local authorities requires significant resources and the Commission makes no statement/specific request, but legal autonomy established by law is explicitly mentioned by the Commission. It is necessary to have local leadership and its autonomy from the central power, a consequence of the subsidiarity principle. As for the relationship between state and local government, the Commission does not necessarily suggest a transfer of power from state government to local or regional one, but often requires a clear distribution of powers. As far as the administrative-territorial division is concerned, the Commission expects that candidate countries have a good separation of the regions, without being clear whether this involves a change in territorial-administrative structures.

However, administrative reform varied from state to state, a contribution in this respect is represented by historical legacies, by political approaches, by politicians and experts who that each state has. Thus, in 1997, the Commission specified that Hungary, Czech Republic, Estonia and Poland have the administrative capacity necessary to implement cohesion policy on a medium term, while Bulgaria and Slovakia were in need of significant reform. In 1998 and 1999, Slovakia received an improved notice, unlike Bulgaria that maintained its position.

[56] Beblavy, M., „Public administration reform in Slovakia and other Central European countries and its implications for Ukraine", April, 2005.

Chapter 3. The analysis of administrative convergence in terms of four examples: Greece, Slovakia, Bulgaria and Romania

3.1. Greece

Greece, although an EU member since 1981, still faces many shortcomings in the public administration domain. A positive aspect is the fact that Greece is the country with most stable institutions and rules on transparency, followed by Romania and Bulgaria.

The reform in Greece has grown, just as in other states, under the pressure of external factors. Joining the European Union played an important role in this context.

Although Greece has moved slower on the reforms path, they know an acceleration process with the mid 1990s, both at economic and administrative level.

In April, 2000, the Greek Prime Minister said that his government would introduce policies designed to create a mentality at the public service level that implements decentralization and allows redefinition of the relationship between administration, civil society and market. Greece has faced administrative traditions and legislative obstacles in reforms implementation.

For example, Greece is one of the countries where the close relationship between high levels of public administration and political parties contributed to the formation of hierarchical structures that concentrate decision-making power at the highest level, reducing flexibility and officials' accountability at lower levels of administration. Greece also faced a weak public sector performance due to competition with the private sector, to weak salary motivation and to discouragement of good practices.

Another important issue faced by Greece in administrative reform envisages legislative inflation, a phenomenon called polynomie[57]. Greece's legal system is similar to the French one, it is adapted from it. Thus, it consists of many instruments such as laws (arranged in codes), presidential decrees, ministerial decisions, circulars and local regulations. The legal instruments at the EU level add a new layer to legal system. Legislative inflation can be seen like a growing trend of the number of laws, a trend for a relatively short period of time. Thus, the legislation of the '90s was eight times larger than in the '70s. Each law also generates a number of presidential decrees and ministerial decisions.

This increase in law' number has important consequences for transparency, which is reduced due to confusion arising when implementing. And also for investments, the foreign companies were disinterested because of rules and procedures inconsistency and because of differences between them that can be found at different administrative levels. Of course, not only the legislation quantity but also the quality and effectiveness of each law matter as they affect social welfare and economic development.

Preparation for accession led to a significant number of reforms aiming to increase the efficiency of public administration. Privatization and liberalization of state owned enterprises were among the financial reforms that have preceded the administrative ones and affected services such as transport, energy, and communications.

[57] OECD, Regulatory Reform in Greece, OECD Reviews of Regulatory Reform, Paris, 2001, p. 135.

It aimed to increase professionalism, transparency and accountability in the use of legislative instruments, for competition and to reduce favoritism when employing in the public sector by introducing centralized and standardized procedures for filling positions and the free movement of personnel. Another priority was the increasing public service neutrality. In 1994, Greece has introduced a new policy for recruitment and selection of civil servants in order to reduce favoritism. Policy was based on three main elements: strict controls on new positions, creating an independent agency to handle recruitment and developing transparent procedures for promotion.

To coordinate recruitment and promotions at ministerial level a high-level committee has been introduced. It is known as the Tripartite Committee that decides, every month, for all government, on the distribution of vacancies. The Committee consists of representatives of Ministry of Interior, Public Administration and Decentralization, Minister of Finance and General Secretary of the Prime Minister's Office. Committee decisions are submitted to independent recruitment agencies.

Recruitment agency, ASEP, acts as an independent agency designed to handle the civil service recruitment. To ensure its independence, the leadership is appointed by Parliament. Its main role is to manage recruitment based on written examination. ASEP has been successful in de-politicization of public service and in reducing favoritism. This led to increased confidence in public service, although recruitment has become more rigid as a result of the reform. Finding qualified staff for the technical functions becomes more difficult.

Another measure that accompanied the recruitment policy aims to reduce public sector size. In 1998 the government introduced a policy called “1 for 5” which means that for every five vacant positions only one position is replaced. However, due to numerous exceptions, this had little impact.

The reform continued with the adoption of numerous laws on decentralization, the ministers’ attributions, on strengthening the independence and transparency, on restructuring certain services, etc. An important law is that of 1994 when all government’s responsibilities without a national character are being delegated. The actual transfer of powers was, however, over time, in subsequent years.

The program was known as Ioannis Kapodistrias and had a significant impact on public administration. The identified problem was that there were many small local authorities lacking adequate political representation and that were not able to provide necessary services to the community. This led to stagnation of local and regional development process.

The program continued through the adoption of the Law 2539/1997, which defined the powers of local authorities, it established new financial arrangements to enable the provision of certain services and the necessary personnel to provide those services, but also their monitoring mechanisms. The program resulted in 5775 jurisdictions that existed before 1997 in 1033 municipalities and communes. The first elections for mayor were held in 1998. Moreover, 139 of competences have been transferred to the 13 created regions and other attributions to local authorities.

There was also a staff transfer from central to local authorities. Through the personnel transfer, the program affected also the quality of services at different levels of public administration. In addition, the visible effect of the program was that the central government began to focus on developing strategies and policies rather than on fulfilling duties, as happened before. A law was also adopted in 1994 considering reform of the electoral process. The prefect, previously appointed by the central government, it is now elected together with a

council of the prefecture. Together, these reforms embodied by the laws of 1994 and 1997, and by the imposed measures led to orienting administration towards the citizens' needs and to government's consolidation. The law 2647/98 transfers responsibilities to regions, to local authorities. Greek public administration secured therefore the degree of decentralization requested at European level.

Another direction that the reform knew it was the one represented by the new public management program, called "Quality for the Citizen", a program initiated in 1998 in order to improve services provided to citizens by public administration. The program included several initiatives as:

1. Publication of information materials for citizens that show the services provided to citizens by the government. This initiative resulted in the development and publication every two years of a citizen's guide and in editing a weekly magazine to provide public sector vacancies.

- Simplification of administrative procedures such as acquiring driving license where the number of documents required was reduced to seven.
- Creation of an Office of Citizens in all prefectures and municipalities in order to inform citizens. Information is also made through electronic media and through information kiosks provided at the sites of 39 prefectures. It is also possible online filling out of forms and authorizations.
- Since 1998 a call center for citizens was set up where they can apply to receive certificates at home. These are birth certificates, passports or they can simply call for information. It seems that the service was good once over 88% of users were satisfied according to a survey conducted by the Ministry of Interior, Public Administration and Decentralization.

In 2000, these initiatives were brought together in a complex program called "Politeia" which aimed to improve the quality of public services. Among its main objectives it was included the recruitment of qualified personnel to assist in implementing the reform, to develop new technologies and to adopt modern techniques of administrative controls in order to increase transparency and to eliminate corruption, to adopt financial management measures based on cost-benefit analysis and on measurement of service and employees effectiveness.

In 1999 were adopted the Code of Administrative Procedure and a new Code of Civil Servants. The Administrative Procedure Code sets new limits and procedures to address requests from citizens. It also requires civil servants to give explanations for delays and to provide details on procedures for accessing administrative documents. It defines the terms of contracts between public and private sector and determines the methods of how to access the mechanisms of administrative appeals.

The Code of Civil Servants establishes detailed procedures for recruitment and anti-corruption mechanisms. The latter ones include constant updating of the income statement that officials are obliged to provide, the obligation to mention considerable goods acquired by the civil servant or his family members, provides the ability to investigate a situation of uncertainty, in which the civil servant's assets had an unjustified grown compared to his salary and allows disciplinary penalty when appropriate.

The correct implementation of these codes is sufficient to ensure a significant increase of transparency and public confidence in administrative institutions by reducing corrupt

practices and abuses. Another aspect of their implementation would be the change of bureaucratic culture to a more open decision-making style, and closer to citizen.

An important factor contributing to the implementation of administrative reform in Greece was the transposition of Community legislation. Transposition of directives had a positive influence on Greek administrative system, allowing the implementation of laws in some areas such as liberalization of electricity or telecommunications services. The implementation would have been difficult in other circumstances. However, transposition of the acquis communautaire has proved to be difficult in terms of speed and content. Greece was not sufficiently open to the European single market, thereby depriving its advantages. In some areas, Greece has sought to obtain waivers and extensions of the deadlines for implementation, which slowed down the reform process.

A challenge for the implementation of administrative reform was the fact that Greece decision-making system is centralized, closed, controlled. You can not talk of openness to innovation, alternative instruments of governance, visionary politics. There is a tradition of legal and administrative procedures that hinder the consideration of alternative procedural or decisional methods.

All these measures are steps taken by Greece to the reforming administrative convergence specific to candidate or Member States of the Union. The sustained effort to delegate powers to local authorities, to increase transparency and responsibility of public institutions, to depoliticize civil service and the new public management initiatives show that Greek administrative system was aware of its limitations, including its administrative limits and undergone the need of continuous reform.

3.2. Slovakia

Public administration reform in Slovakia gave from the beginning priority to territorial reform and reform of certain public institutions. In Slovakia, year 1996 meant the establishment of a new administrative-territorial division. There were formed eight regions and the districts' number has been doubled from 38 to 79. At first glance it seems that Slovakia passed quicker than Czech Republic over difficulties arising from territorial reform. However, the Slovak model appears, at a closer look, to have negative results.

Slovakia has changed in recent years many governments, each government proposing another agenda for public administration reform, sometimes incompatible with previous ones, leading inevitably to a delay in the reform process.

Slovakia faced during EU accession in 2004 a set of changes at administrative level, changes observed in Country Reports elaborated by European Commission during pre-accession period. Thus, during 1998-2002 numerous legislative and institutional changes took place. In 1999 the European Commission[58] makes the first official statement on the principles of decentralization and local autonomy. The adoption of Public Administration Reform and Decentralization Strategy is welcomed, but it needs to be developed in order to provide a realistic approach to reform implementation. It mentions that Slovakia signed the European Charter of Local Self-government but it was not ratified[59]. In 2000 it was ratified the European Charter of Local Autonomy. Since 2001, several laws were adopted in the context

[58] European Commission's Regular Report on Slovakia's Progress towards Accession, 1999, p. 14.
[59] Iancu, Diana-Camelia, Klimovsky, D., 2008, Thinking outside the box: Local government and the preference-holders' participation to policy making processes in Slovakia and Romania, NISPAcee annual conference, p. 10.

of government reorganization. The law concerning competences'[60] delegation led to implementation of the decentralization principle through the transfer of attributions from central to regional and local levels by establishing legal requirements for fiscal decentralization. The Commission Report from 2002 states that local autonomy is the key element for the public administration reform implementation.

With regard to openness and transparency, the 1998 and 1999 reports were not favorable, the lack of transparency being associated with the privatization process and the manifestation of corruption. In 2000 it was adopted a law on free access to information[61] which results in increasing transparency, citizen participation in decision making and combats corruption[62]. The results of law implementation are felt since 2002.

Another issue that concerned the Commission in the accession of Slovakia to the European Union context refers to the rights of minorities, particularly Roma minority and how they are followed. In 1999 it is adopted the Law on use of minority languages in official documents, thus allowing citizens of different ethnicity to address in the ethnic minority language before administrative bodies when a minority represents 20% of the total population of the area. Implementation of the law was, however, difficult. This determined the Commission to draw attention, through the report in 2000, on this issue, on the living conditions of Roma minority. The Commission's opinion was upheld in 2001 too.

Proportionally with the decentralization process it increases the discrimination phenomenon because, in the new context, local authorities had new competences and attributions, allowing segregation and isolation of Roma population in certain areas of the country[63].

In 2001 a law was adopted on civil service[64], law which, unfortunately, maintained political tensions. The administrative system remained politicized and deprived of the application of certain principles such as responsibility, professionalism and integrity. To this law it was added the civil service law which placed particular emphasis on creating a depoliticized civil service system based on neutrality, impartiality, professionalism, as it was recognized by the Commission in the 2001 report.

The law entered into force in 2002 and in the same year was adopted a code of ethical conduct for civil servants and the government employees, as well as for the elected representatives of local institutions. The implementation coincided with an alignment of different payment systems existing in the public sector and was going to provide the necessary stability and professionalism required to implement administrative reform. The Civil Service Law makes provision for mobility, recruitment, training, transfer and the right to continuous learning[65].

A reform of the judiciary system was also started, since courts of justice are negatively viewed and we can not speak of the existence of administrative courts. There were set up control mechanisms such as Control Division of the Office of the Government which intends to verify administrative complaints and the administrative system. Supreme Audit Office has

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[60] Law no. 416/2001 Coll. of Laws on Some Competences Devolution from the State Administration Bodies on the Communities and Superior Territorial Units adopted by National Council of Slovak Republic.
[61] Law no. 211/2000 Coll. of Laws on Free Access to Information and on Changes and Completion of Some Other Acts adopted by the National Council of Slovak Republic.
[62] European Commission's Regular Report on Slovakia's Progress towards Accession, 2000, p. 18.
[63] Iancu, Diana-Camelia, Klimovsky, D., *op. cit.,* p. 12.
[64] Law no. 312/2001 Coll. on Laws on the Civil Service and on Changes and Completion of Some Other Acts adopted by National Council of Slovak Republic.
[65]SIGMA, Slovakia, public service and the administrative framework assessment, 2002, Summary, p. 1.

the role to check funds from the state budget, to investigate cases suspected of fraud and corruption. An equivalent of the Ombudsman, "the Public Defender of Rights" was appointed in March 2002, its mandate involving mal-administration. A considerable effort was made to improve legislation on conflict of interest for public officials, the corruption still being a widespread problem.

Certainly the legal system knows the progress. Every measure adopted is accompanied by an addendum that sets out the grounds, necessity and budgetary impact of the act to be adopted. Thus, it can exercise quality control over the adopted legislation, although a lot of legislation was passed to the approval during the adoption of the acquis communautaire.

3.3. Bulgaria

Like any other candidate country, Bulgaria had to meet the three criteria established in Copenhagen in 1993, and the fourth one, the administrative capacity, established by Council in Madrid in 1995.

In 1997, the European Commission said that Bulgaria should develop a coherent plan of administrative reform. The Commission has outlined some important points in establishing the necessary administrative capacity to implement the acquis.

The first point which has been considered concerns the central government's role in European affairs management and the independence of civil servants involved in this activity. Another important point mentioned by the Commission considered launching appropriate and necessary training courses to better train civil servants.

The Commission noted that in Bulgaria there are considerable payment differences between public and private sector. This could stand in the way of performance training. However, the acquis implementation does not represent a problem that directly relates to the administrative personnel's training. Often it is just the lack of institutional framework necessary for Community's policies[66] implementation.

A question raised by the central government in Bulgaria concerns the fact that public administration reform is not a specific topic of the acquis communautaire. There isn't a clear, specific Community directive that takes account of public management rules. Thus, national governments are responsible for the national government. However, the Union influences the way the Member States are governed, even in the absence of direct power.

Like all candidate countries, Bulgaria was imposed some results that had to be achieved. And the means of achieving these results is upon state's choice which is free to organize public administration as it seeks to achieve more efficiently and appropriate the results.

An important feature of the administrative capacity considers the consistency establishment between EU and national policies. The Community ones should become more and more national.

In the prospect of EU membership, Bulgaria's government confronted with a major transformation: a national administrative structure, originally created to implement the European Agreement was gradually transformed into structures designed to conduct business

[66] Borissova, Olga, Public administration reform in Bulgaria, Central and Eastern Europe on the Way into the European Union: Reforms of Regional Administration in Bulgaria, the Czech Republic, Estonia, Hungary, Poland and Slovakia, Centre for Applied Policy Research, Munich, 1999.

with EU in the pre-accession phase. Thus, the Bulgarian administration has become much more aware of the Union internal policies and how they are run. Thus, EU policies are considered domestic rather than external.

Like any other country that went through a communist period, Bulgaria has experienced a centralized administration that has overwhelmed administration and government and rule based on Party policy law. Decisions were taken at central level, the leaders sought to ensure political interests rather than those regional. Municipal and regional budgets were generally allocated.

During 1990-1997, the political situation was characterized by numerous changes of government. Public administration reform has been identified as a priority for Phare assistance in 1993-1994. In September 1995 there were created two related structures intended for administrative reform management: an inter-ministerial working group to deal with administrative reform and a Department of Administrative Reform within the Council of Ministers. In March 1996 it was adopted the "New Strategy of Public Administration Reform in Bulgaria", which focused on central and local government reform. However, the economic crisis that hit Bulgaria in 1996 and the resignation of Videnov government in December 1996 led to the postponement of administrative reform. In 1997 the interim government closed the department for administrative reform and with the election of a new government, it has become a priority, although the responsible institutions have been dissolved and the strategy rejected.

A new strategy was prepared at the new government level, a strategy that at least apparently seams to be a first step to develop the status of civil servants. The strategy was to create a vision of administrative reform, to shape the rules and procedures that were to be used in administrative structures and to introduce new technologies in the services offered to citizens in order to increase transparency and to be sure that the citizens' right to information is fulfilled.

While developing legislation on civil service, the tool necessary for the implementation of administrative reform is delayed by the constant change of governments. The situation activation is triggered together with the preparation for accession to the Union.

The main objectives of reform aimed at:

- Increasing the prestige of the state administration by strictly following the principle of powers' separation.
- Reform of relations between society and state institutions so that the state is relieved of its extrinsic functions.
- Creating favorable conditions for citizens to develop initiatives and activities.
- Building a modern structure of the state administration - modern in terms of organization, efficiency, tools and results.
- Introduction of new technologies and new administrative and information culture as an important condition to achieve transparency of the state administration.

Reforming the State focuses on establishing the state's position and the role of public services, especially by reference to private operators, the awareness of the citizens needs, the role of central government re-examination, the responsibilities delegation, the public management re-sizing.

Two important laws were drawn: one for administration, the other for civil servant. Both were followed by additional acts, secondary legislation, including procedure codes.

The acts are an important step in establishing the necessary legislative framework in order to reform Bulgarian civil servant position in the context of EU accession. Both make explicit reference to principles such as openness, political neutrality, impartiality, accountability, responsibility, loyalty, legality, integrity. Putting down these norms was one indicator of the political elite to build the necessary legal bases for administrative reform.

After the Bulgaria accession to the EU, together with Romania, its administration faces other challenges such as development and successful implementation of projects within the operational programs. A key role in strengthening administrative capacity had even from the outset, the Ministry of State Administration and Administrative Reform, which focuses on the operational program "Administrative capacity" to establish a more modern, efficient and transparent administration.

Particular attention was given to the principles of integrity and transparency appliance. In this regard Bulgaria took part at the European Initiative for Transparency and approved the *Green Paper on Transparency* which aims to increase civil participation in decision making. Therefore, it was adopted a strategy for transparent governance, for preventing and combating corruption and a program for transparency in central government and high ranked officials activity.

As for the legislation, outside the Statute of civil servants it was adopted in 2005 a Code of Ethics of Highly Ranked Officials, which came as recognition of compliance with the principles of transparency, responsibility and integrity in public administration. Moreover, in 2006 there were developed the Standards for administrative ethics. They represent the main rules that underpin public office employment.

Regarding the dialogue with the press, a number of measures were taken including that of ensuring maximum publicity for the forums in which important decisions are taken, of transforming media into a constant partner through the organization of press conferences and the regular updating of official websites.

When we talk about the training we should mention the Institute of Public Administration and European Integration, a body that considerably enlarged the range of training courses offered in public administration, including in their curricula topics such as preventing and fighting corruption. According to a Report on the activity of Public Administration and Administrative Reform[67], in 2006, over 50,000 officials completed a course in preventing corruption. In fact, the training was a part of a wider program “Preventing and combating corruption in public administration by improving its officials” program that sought to strengthen values such as honesty and integrity and applying best practices to reduce corruption in government.

Therefore, Bulgaria’s priorities, as a Member State can be summarized to strengthening administrative capacity and preventing and fighting corruption. The European Commission’s report from 2006 stated that Bulgaria registered “important progress in public administration and it is about to have an efficient administration if the current reform line is maintained”.

[67] Report in the Activity of State Administration and Administrative Reform, August 2005-December 2006, available on the official website of the Government of Bulgaria, www.mdaar.government.bg and accessed on 03.01.2010.

3.4. Romania

Like other countries in Central and Eastern Europe, Romania faced the democratization process with fall of the communist regime in 1989. The Romanian transition period from a communist state to one marked by democratic institutions, by liberalization, by protecting the rights and freedoms of citizens and their inclusion in the government was sufficiently long and marked by a considerable development with the establishment of contacts between Romania and the European Union. In 1997 Romania becomes a candidate and, therefore, undergoes a process of Europeanization. The main challenge is to fulfill all the criteria imposed by the EU, including the one about strengthening the administrative capacity.

It should be noted that the period after 1989 is marked, at administrative level, by an excessive politicization, something noted in specialized papers[68]. This is characterized by the fact that civil servants receive a position based on political criteria, and the Parliament does not properly exercise its legislative and parliamentary control function. Thus, the administration is based on centralization and hierarchy.

First contact with the European Union dates from 1990 when a trade agreement was concluded with the CEE and CEEA[69]. In 1993, Romania's intentions to become a member of the Communities become official by signing the Association Agreement[70]. The agreement mentions the need to create appropriate institutions to enable the gradual integration of Romania into the Union.

The next step is the year of 1997 when the Commission agrees to issue regular reports on Romania's situation, reports to be submitted to the Council. It is recognized that Romania fulfilled at that time the political criteria but failed to respect the other three, namely that of having a functional market economy, that of the acquis communautaire implementation and that of strengthening the administrative capacity. Romania's monitoring period by the Commission was to begin in the late 1998[71].

The Pre-Accession Strategy called for more leverage in order to implement the mandatory criteria. Thus, we can mention the Accession Partnerships, documents that unilaterally impose conditions for the candidate state, conditions that serve Community interests and policies[72], twinning programs of national administrations that ensure the personnel and resources exchange between Member States and candidate countries, an effective mean of taking the best practices and pre-accession funds: PHARE, SAPARD and ISPA. European Council in Helsinki in 1999 decided to start accession negotiations with Romania[73]. Since 2000, Romania takes position by adopting the necessary documents for each chapter of the acquis communautaire. These documents are intended to present the position of Romania to EU about the acquis communautaire in a particular field, the country's legal status at the time in question, the existing administrative institutions necessary for implementation and the reasons for any requested exceptions.

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[68] Alexandru, I., *Public Administration. Theories, realities, perspectives,* Bucureşti: Lumina Lex, 2002.
[69] Luxemburg Agreement in 22.10.1990, published in the Official Gazette no. 51/15.03.1991.
[70] Ratified by Law no. 20/1993 and published in the Official Gazette no. 73/12.04.1993. The Association Agreement enters into force partly since 1993 and totally in 1995.
[71] As settled within the Luxemburg European Council in 1997.
[72] Idu, N. (coord.), 2001, *Comparative analysis of the status of negotiations for accession to the European Union of candidate countries of Central and Eastern Europe* (in Romanian), Bucureşti, European Institute in Romania, p. 9.
[73] Conclusions of European Council Presidency from Helsinki, point I-10.

Negotiating chapters were opened on in the following years. The chapters closed in 2004 and 2005 when is being signed the Accession Treaty of Romania at the European Union. The Treaty will enter into force in 2007, at 1st of January, when following ratification by the Member States, Romania, alongside Bulgaria become member of the European Union.

However, it should be noted, that administrative convergence process has deeper roots than those required when Romania submitted application to the Union. Romania took steps towards democratization and thus to strengthen administrative structures even after the fall of the old regime. The contact with the Community was an effective mean of accelerating the acquisition of standards and reaching a quality level within a short period of time.

The complex process of standardizing the rules, the structures and the internal practices with those in European Union countries occurs before the pre-accession period. Romania joined the modernizing line by changing legislative conditions. A new regime needed a new legislation. Constitution, with subsequent amendments and the whole set of laws that came to govern the post-1989 democratic regime are the key elements to our standardization process under observation.

The first major moment is the year 1991 when it's settled the legal context for democratization by adopting the Constitution. Romania becomes a democratic and social[74] state by the rule of law. Undoubtedly, it is not necessary to argument the importance of the relationship between political regime and administrative organization of a state. A democratic state ensures an administrative system based on free elections, freedom of speech, freedom of association, and access to information, rights guaranteed by law and by international treaties to which Romania starts to be a part.

Fundamental for the development of the public administration is to mention the principles of local autonomy and decentralization within the Constitution[75]. Their application has led to better management of local interests and represents a step towards administrative convergence. In addition to decentralization there are established the principles of openness and transparency through the Law no.69/1991. This law speaks also about certain aspects of the organization and functioning of local public administration such as the eligibility of local public authorities, the fact that the prefect is the representative of the government in the territory, the responsibility of mayors, of county council's presidents, of advisers and civil servants for acts committed during their service. This law also underlines essential principles of administrative reform such as effectiveness and efficiency of public services: "good functioning" of communal services, local transportation and utility network (Article 21.2.1). As mentioned earlier one of the axes around which the administrative reform focused was this public sector borrowing of values from management and private sector.

In addition, the Law also contains other principles such as partnership and cooperation, non-discrimination, rule of law, guarantees of citizens' rights, standards for the proper functioning of public administration. All these principles are reflected in separate laws in the coming years[76]. Visible progress is noted in particular in the period after 1997, when Romania becomes official an EU candidate state. Certainly, the most important legal norm for the administrative system in this period is the Law on Civil Servants Statute, originally published in Official Gazette no.600/08.12.1999, amended, completed and republished in the Official

[74] The Constitution of Romania, art. 1.3, in the initial form from 1991, published in Official Gazette no. 233/21.11.1991.
[75] Articles 1.1 and 1.2 from Constitution.
[76] For instance the local autonomy is underlined by Law 27/1994 on taxes.

Gazette no. 251/22.03.2001 and no.365/29.05.2007. These emphasize the civil servants delineation of responsibilities and their improvement. In addition, we mention the Law 215/2001 of local government, the Law 161/2003 on measures to ensure transparency in the exercise of public dignities, public positions and in business, to prevent and punish corruption, the Law 339/2004, a framework law on decentralization, the Law 7 / 2004 on the Code of Conduct for Civil Servants, the Law 477 / 2004 concerning the Code of Conduct for contractual staff of public authorities and institutions. Providing the necessary legal context for the reform it is indeed important for the proper conduct of administrative reform. But it is only one of the conditions necessary to achieve the final objectives.

The year 2001 was the one in which public administration reform has taken a strong outline through a series of measures designed to accelerate its implementation[77]. Among these we mention that it was adoption the Governmental Decision 1006/2001, the Strategy for accelerating public administration reform. The main objective of this strategy is to create a new legislative framework for the provision of services by public administration and new institutional structures, to increase the efficiency of civil servants, to modify the organizational mentality and behavior. And last but not least to create an administration citizen oriented. In September 2001 it was established the Government Council for Monitoring Public Administration Reform and it was composed by eight ministers from the representative Ministries and was headed by the Prime Minister. This body has the task of overseeing the whole process of reform in public administration from the political level. Following the reorganization of central government authorities[78], this body was reorganized[79] itself in order to increase the coherence of its action, the efficiency and flexibility.

In 2001 it was also created the National Institute of Administration (NIA) as specialized institution in training civil servants and elected representatives. National Agency of Civil Servants (ANFP) is responsible for the management of public positions and for the development of normative acts on public positions. ANFP works in close cooperation with INA.

In May 2002 it was established within the Ministry of Interior and Administrative Reform (known at that time as the Ministry of Public Administration), the Central Unit for Public Administration Reform (UCRAP), in order to ensure the implementation of decisions of the Government Council.

During 2004-2006, according to the 2004-2006 revised strategy to accelerate public administration reform and then the 2005-2008 Government Program, the decentralization process has been considered a priority for public administration reform. The Government's commitment is well reflected in the legislative package adopted in 2006 package that includes: decentralization framework law 195/2006, Law on Local Public Finance 273/2006, Law 286/2006 amending and supplementing the Law on local government, 215/2001, Law 251/2006 amending and supplementing the Law on the Statute of civil servants 188/1999 and Government Emergency Ordinance 179/2005 on the prefect institution.

Under the recently adopted legal framework, ministries consider more decentralized competences, as reflected in their projects for sector strategy. The major objectives of

[77]Ministry of Interior and Administrative Reform, The Operational Program for Development of the Administrative Capacity 2007-2013, September 2007, p.11.

[78] According to the Parliament's Decision 16/18.06.2003 and to Emergency Governmental Ordinance 64/29.06.2003.

[79] Through the Government's Decision 925/2003.

decentralization strategies aimed at new skills and at improving the quality of public services already decentralized. To achieve these goals, the strategies have within the action plans the appropriate procedures and implementation mechanisms for both central and for the local government[80].

In the pre-accession period when Romania had the candidate country status, the European Commission, through the constant reports, contributes to a proper direction of administrative reform. Romania has had major problems in public administration domain, problems exposed many times over the pre-accession process by monitoring reports. A critical problem is given by the existence of an administration characterized by centralization and bureaucracy, by lack of transparency and limited capacity of implementing policies.

Decentralization is one of the principles of good governance. The aim is to strengthen regional and local authorities that they are able to satisfy the citizens' interests and to respond to external environment changes.

In the 1999 report, the Commission mentions the necessity of financial decentralization and the need to establish a clear mean transferring from central to local authorities. The subject is repeated in subsequent years and the Commission suggests the need to establish the legal context for decentralization. Thus, the Law from 2001 of public administration local government fulfils this need. It defines the local authorities' competences and outlines the relationship between central and local government and promotes the principle of local autonomy. Developing the law was not, however, sufficient to solve the problem of decentralization. This was repeated in 2003 and 2004 when the Commission's attention was directed to the lack of transparency of financial transfers from county to local level and on the transfer of responsibilities from central to local level, without a proper financial transfers' support[81].

As far as the *openness* is concerned, adopting in 1998 the National Strategy for Computerization and Rapid Implementation of the Information Society is appreciated by the Commission, but Romania is still confronted with problems of proper dissemination of information, problems of citizens' involvement in decision making, particularly of Roma community. The 2001 Law on free access to information improves the situation[82].

Transparency, however, is considered almost nonexistent. In 2001, developing the legislation on e-government[83] was a noteworthy step for the principle of transparency at the administrative system level. However, a law in this respect was lacking, this lack being constantly mentioned by the Commission reports in 2000, 2001 and 2002.

The year 2003 is the year when Romania adopted the Law 52/2003 on decisional transparency, a measure welcomed by the European Commission report for that year.

Citizen involvement in the decision making process together with parties directly concerned and the economic and social actors is regulated by the Economic and Social Committee development. Citizens' rights are also highly considered by the Ombudsman institution, the institution which excoriates the administrative authorities when citizens'rights are violated. Its activity reveals thus the principle of *responsibility* at the public administration level.

[80]Ministry of Interior and Administrative Reform, The Operational Program for Development of the Administrative Capacity 2007-2013, September 2007, p. 13.
[81] The 2003 Country Report, p.17 and the 2004 Country Report, p. 18.
[82] Law 544/2001, published in Official Gazette 663/23.10.2001, subsequently modified and completed.
[83] Government's Decision 1006/2001, published in Official Gazette 660/19.10.2001.

As previously mentioned, we speak about administrative reform when we aim to apply two specific principles of public management: *efficiency* and *effectiveness*. The Commission repeatedly underlines the need to apply these principles when speaking about the justice and foreign affairs reform, about the management of certain services, about the strengthening the effectiveness of the Ministry of Finance, about the coordination of public policies or about the way local authorities manage their own resources. These principles relate mainly to public services and the principle of subsidiary. Its enforcement implicitly leads to increased efficiency and effectiveness.

Another aspect considered by the Commission was that of delimitation between legislative and executive power (an emphasis on *rule of law*, which, despite the political dimension, has in this case a particular relevance by reporting to the executive power). Essentially, it was concerned the legislative activity of the Government that had to be lowered (high number of ordinances led to inefficiency, the slow legislative process to difficulties in implementation and in obtaining the act's results.

Other issues related to administrative reform can be found at procedural level, the decisions taken without following the internal procedures, without proper consultation, without a sufficient assessment of their impact is an example in this sense. The result is the existence of legislative proposals insufficiently developed.

There are difficulties in performing the duties of the National Agency of Civil Servants due to the lack of legal instruments of authority and resources. As for the human resources there are highlighted the problems related to limited training, to high turnover among public officials and to the minor progress made in areas such as: salary, career tracking and development of public responsibility.

In addition, we can mention: insufficient financial resources for professional development of civil servants, the lack of coherent training policies, the high degree of fluctuation, the lack of a unitary payment system for civil servants, the lack of coherent policies on programs aligning public services to the requirements of the acquis communautaire, the lack of a secured electronic communication system that streamlines the movement of documents/information, insufficient or unsubstantiated allocated human resources.

Thus, through the obligation to meet the accession criteria, Romania is subject to a process of administrative reform, like other candidate states, in the general trend prevailing in Central and Eastern Europe. To resume, the most important measures taken during the pre-accession led to:

- implementation of priority programs in the field;
- creation of structures compatible with the EU ones in areas pertaining to: individual records, developing specific legislation, introducing electronic identity card and also its operation;
- creating and developing the framework for staff training;
- implementation of electronic projects, to bring administration closer to citizens, reducing bureaucracy, for example – 'e-Administration';
- beginning the civil service reform process.

An innovative program, funded by the European Union was the Youth Officials Program, the Young Professionals Scheme (YPS), which is preparing new generations of public officials

both locally and nationally in line with European values and principles of public management[84].

The post-accession period is also characterized by an attempt to reform. The European Union is a dynamic organization, subject to many factors of influence. Romania now must face a context based on the interdependence characteristic to Member States, on an integration process based on a deeper Europeanization, on practices acquisition and Community standards implementation. Romania's strategic objective for 2007-2013 is the convergence with EU member states in terms of welfare, general attributes of society and citizens. This, of course, includes the administrative convergence at the level of positions, services and public activities.

Deepening at national level the integration process aims to: strengthen the capacity of central and local government; to complete the reforms in justice with sustainable and tangible results in fighting corruption; to strengthen the reforms of internal affairs; to enhance the national information campaign on European values and the integration benefits and costs for the Romanian society.

Public administration reform strategy developed in 2001 was supposed to be updated before accession and its key points were[85]:

- developing the capacity of public authorities and institutions to formulate and implement national and local policies, consistent with community ones and to work at the performance standards of the national administrations of other EU Member States;
- clearly define the role of each structure within the administrative system in order to determine a coherent institutional mechanism and to have an efficient decision making and implementation process of European norms.

The priority action directions to implement the strategy are:

- The proper application of the acquis communautaire, in parallel with the development of national and local public policies, consistent with the Community ones;
- Increased attention to areas covered by the negotiated transition periods and training institutions responsible for full implementation of the acquis communautaire, after transitional periods expires;
- Continue to implement the general principles of European administrative space on the legality, legal competence, predictability, openness and transparency, responsibility and accountability, efficiency and effectiveness in order to increase the quality of administrative act;
- Develop action training for civil servants in European affairs;
- Institutionalization of a regular dialogue between the central government with local and regional ones for the transfer of best practice in implementing EU policies;
- Increasing the visibility of regional and local authorities in Romania in the European associations of regional and local communities.

[84] Central Unit for Public Administration Reform (CUPAR), Answers to the Questionnaire for the Recording of the Existing Situation on the field of the Institutional Renewal in BSEC Member States, Romania, 2006.
[85] Post-accession Strategy 2007-2013, 13.12.2006, available on Romanian Government Official Website, http://www.gov.ro/upload/articles/100071/strategie-post-aderare2a.pdf, on 13.02.2010.

In relation to public administration reform in 2007-2013 is also the objective of fighting corruption. This can be achieved by improvement and rigorously application of the regulatory framework, through stability and consistency of laws and institutional strengthening of agencies with responsibilities in the field. It will be especially considered: the identification of areas vulnerable to corruption and the adoption of measures, the increase of transparency of public institutions, the increase of integrity and resistance to corruption level in public administration.

Chapter 4. Conclusions

4.1. Generalities

The analysis exposed in the three chapters of the present paper offer us a brief image of the interdependence between reform processes and convergence in some EU states, especially in the South-Eastern Europe. Including Slovakia in the analysis confirms the fact that the analyzed topic is wider and has European dimensions.

The most relevant conclusions can be summarized as follows:

- The administrative convergence processes have multiple and profound determinations and are always very visible in the practical sphere. The most employed mechanisms and instruments are comprised in the national reform strategies that focused, due to European authorities' incentive, on some pillars such as: decentralization, public position and public policies.
- The most generous broad framework of the administrative convergence is offered, at least from a theoretical perspective, by the European Administrative Space. The concept was born from the necessity to monitor and direct the administrative reforms in the EU candidate states. European Administrative Space gained virtues specific to a proved European model of public administration. The period that our research takes place into corresponds to an ample process of internalization in the national public administrations of the European Administrative Space (EAS)' values and principles. From this perspective, the perceptions upon the level of integration process differ as well as the manifestations of the public administrations.

4.2. The social perception on the internalization of EAS principles

Matei and Matei (2008, 45-49) achieved an interesting analysis from the previously announced perspective. The below data were extracted from a study achieved by a research team of the Faculty of Public Administration of NSPSPA on a sample of 727 civil servants, having a similar structure with that of the corps of civil servants in Romania. The period for data collecting is January – February 2007. The questionnaire comprised three dependent variables: administration through law, openness of administration, administration as itself.

From the thematic perspective of this paper, we mention only some items concerning the three variables deriving from EAS principles.

4.2.1. Administration through law

The social perception was directed towards the four independent variables concerning: stability, clarity, complexity, comprehensiveness. The evolution on a scale from 1 to 4 concerning their social perception is presented in Figure 1.

The four characteristics of the legislative system specific for public administration have recorded approximately the same perception with a remarkable difference for complexity, for which 51.66 state that it is rather complex, and 33.85% state that it is complex.

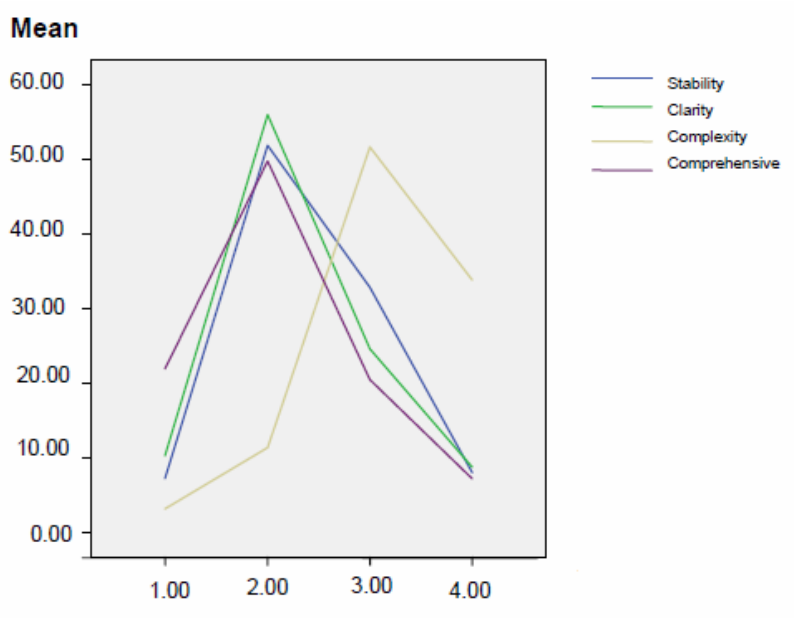

Figure 1. Social perception on the characteristics of administration through law

We obtain a more detailed quantitative image calculating Pearson correlation coefficient for the four variables. Table 9 presents a powerful positive correlation between the perception on stability, clarity and comprehensiveness and a negative one, smaller as intensity on the complexity related to the other variables.

Table 9

Correlation of the variables for administration through law

		Stability	Clarity	Comple-xity	Comprehen-siveness
Stability	Pearson Correlation	1	.966(*)	.057	.855
	Sig. (2-tailed)		.034	.943	.145
	N	4	4	4	4
Clarity	Pearson Correlation	.966(*)	1	-.177	.938
	Sig. (2-tailed)	.034		.823	.062
	N	4	4	4	4
Complexity	Pearson Correlation	.057	-.177	1	-.464
	Sig. (2-tailed)	.943	.823		.536
	N	4	4	4	4
Comprehensive	Pearson Correlation	.855	.938	-.464	1
	Sig. (2-tailed)	.145	.062	.536	
	N	4	4	4	4

4.2.2. Openness of administration

In order to describe this dependant variable, 3 variables have been determined:

Q1: administration for the citizen;

Q2: citizen non-discrimination in his/her relations with public administration;

Q3: equality before law.

The description about the perception of the three independent variables has been designed on two levels: national (Romania) and European (EU).

Figure 2 presents the results obtained in the two above-presented situations. The perceptions are different essentially between the national and European level. Thus, on national level, on average, 35% appreciate the evolution of the mentioned variables with marks of 3 and 4, while on European level, we record a percentage of 61%.

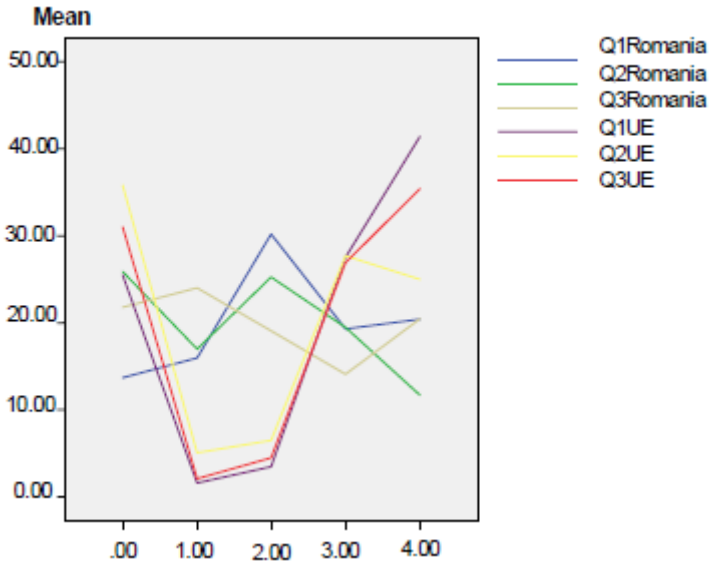

Figure 2. Social perception Romania - EU concerning openness of administration

We obtain a clearer quantitative image determining the correlations between the three variables on national and European level, as well as related with their averages (Mean Q Romania, respectively Mean Q EU). We may formulate the following important remarks:

- on national level, the inter-variables correlations are negative on a large extent, unlike the European level where these correlations are positive, having a large intensity.
- in line with the characterization from the current study, for openness of administration, up to the time being, the social perception reveals negative correlations, negative results for the averages of the variables.
- on national level, the intensity of correlation between the variables and their average is smaller than that on European level, which reaches 1, in some situations.

Table 10

Correlation of the variables for openness of administration on national and European level

		Q1Romania	Q2Romania	Q3Romania	Q1UE	Q2UE	Q3UE	MeanQ Romania	MeanQUE
Q1Romania	Pearson Correlation	1	.172	-.343	-.293	-.526	-.392	.671	-.408
	Sig. (1-tailed)		.391	.286	.316	.181	.257	.108	.248
	N	5	5	5	5	5	5	5	5
Q2Romania	Pearson Correlation	.172	1	-.084	-.449	.065	-.257	.740	-.241
	Sig. (1-tailed)	.391		.447	.224	.459	.338	.076	.348
	N	5	5	5	5	5	5	5	5
Q3Romania	Pearson Correlation	-.343	-.084	1	-.327	-.307	-.307	.115	-.325
	Sig. (1-tailed)	.286	.447		.296	.308	.308	.427	.297
	N	5	5	5	5	5	5	5	5
Q1UE	Pearson Correlation	-.293	-.449	-.327	1	.811(*)	.972(**)	-.633	.966(**)
	Sig. (1-tailed)	.316	.224	.296		.048	.003	.126	.004
	N	5	5	5	5	5	5	5	5

		Q1Romania	Q2Romania	Q3Romania	Q1UE	Q2UE	Q3UE	MeanQ Romania	MeanQ UE
Q2UE	Pearson Correlation	-.526	.065	-.307	.811(*)	1	.923(*)	-.451	.934(**)
	Sig. (1-tailed)	.181	.459	.308	.048		.013	.223	.010
	N	5	5	5	5	5	5	5	5
Q3UE	Pearson Correlation	-.392	-.257	-.307	.972(**)	.923(*)	1	-.569	.999(**)
	Sig. (1-tailed)	.257	.338	.308	.003	.013		.159	.000
	N	5	5	5	5	5	5	5	5
MeanQRomania	Pearson Correlation	.671	.740	.115	-.633	-.451	-.569	1	-.576
	Sig. (1-tailed)	.108	.076	.427	.126	.223	.159		.155
	N	5	5	5	5	5	5	5	5
MeanQ UE	Pearson Correlation	-.408	-.241	-.325	.966(**)	.934(**)	.999(**)	-.576	1
	Sig. (1-tailed)	.248	.348	.297	.004	.010	.000	.155	
	N	5	5	5	5	5	5	5	5

* Correlation is significant at 0.05 level (1-tailed).

** Correlation is significant at 0.01 level (1-tailed).

		Legal adminis-tration	Openness Romania	Openness EU
Legal administratio	Pearson Correlation	1	.686	-.156
	Sig. (1-tailed)		.157	.422
	N	4	4	4
Openness Romania	Pearson Correlation	.686	1	-.680
	Sig. (1-tailed)	.157		.160
	N	4	4	4
Openness El	Pearson Correlation	-.156	-.680	1
	Sig. (1-tailed)	.422	.160	
	N	4	4	4

As in the previous analysis, we remark a distinct separation between correlations of the variables on national level, respectively on European level, as follows:

- an average correlation between evolution, on national level of the processes concerning legality and openness in public administration;
- negative correlations between the two emphasized levels.

Remarks

Without going further with the arguments in favor of administrative convergence, restricting the analysis to the level of the national public administrations, Bossaert and Demmke (2003, 71-88) state that the subsidiary fields of administrative convergence are the following ones:

- the convergence of the national administrations, by implementing and applying the European legislation;
- the Europeanization of the public service, through a *negotiation*, *decision making* and *implementation* process at European and national level;
- the convergence of the national administrations and public service, by administrative cooperation;
- the Europeanization of the legislation regarding the public service and of the national personnel policies, through the European Court of Justice jurisprudence and by building networks.

According to European legislation for the broader framework of Europeanization, the Treaty of Lisbon concerning the EU reform narrows the above analysis, making distinguishing between:

- The Europeanization of the basic principles (“democracy”, “citizenship”, “efficiency”, “effectiveness”, “rule of law”) and the development of the general principles of the public administration (“good governance”, “openness”, “the fight against the poor administration”, etc.);
- The Europeanization of the national public service, taking into account the narrow interpretation of the principles of the free movement of workers and the restriction regarding the employment in the public service (according to Art. 39.4 EC);

- The Europeanization by implementing and enforcing the secondary legislation (the equality provisions in Art. 137 and Art. 141 EC etc.);
- The Europeanization due to the strict interpretation of Art. 10 EC and of the European Court jurisprudence;
- The Europeanization due to the impact of the competition rules in Art. 86 EC and of the privatization of the former public services and enterprises.

The above topics present interest for some known authors that approach this subject convergence and of Europeanization of the public administration, considering that "the public administration Europeanization theory certainly represents an important interest domain" (Bossaert and Demmke, 2003, 56).

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Chapter 3
Research Report 1.2

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

A delimitation study between bureaucracy and governance

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1. Introductive remarks on the concept of federalism "A l'europeenne"

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" contemplates 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 European Union is, or should become, a "federalised" state. Even, without the legitimate monopoly of coercive force, the European Union has acquired some fundamental federal qualities. The European Union 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, however, to a lesser extent, foreign and security policy.

2. European Union federalist trends

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 European Union developed into a political community with comprehensive regulatory competences and a proper mechanism of territorially defined exclusion and inclusion (European citizenship), but also, it shares most features of what the literature defines as a *federation*. The key points that justify this European federative perspective are:

a) The European Union 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 European Union and the Member States overlap.

d) EU Law enjoys supremacy over National Law.

e) European legislation is increasingly made by majority decision obliging several times 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 European Union has a directly elected parliament (since 1979), whose the competencies are significantly increased.

The European Union failed to take into consideration two significant features of the federation. *First point*: the Member States continue to have the exclusive competence to modify the constitutive treaties of the Union. *Second point*: in the European Union (Euro zone) 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 the fiscal federalism in European Union was effective and, while eleven countries out of sixteen display current account deficits, the Euro zone as a whole does not suffer from savings deficit. A debt crisis, for one of EU member states, would never have occurred, if a transfer of savings was institutionally organized. In this perspective, two conditions are necessary: *the harmonisation of the tax rates and the political declaration of equality of living standards within the EMU.*

The direct profit from this reality would be that the upward revision of the official forecast of the Greek public deficit for the end of the year 2009 (from 6 to 12.7% of GDP) never led to such a gauge of interest rates on sovereign debt of EU member states. But the condition for this potentiality would be that the European integration was achieved, because: *the European Union as a whole does not suffer from lack of savings and the external funding for the EU*

partners experiencing that a lack of savings is provided mostly by the other members of the Euro zone.[86]

If we accept take into consideration that the European Union has been evolving into a federal system where formal and material sovereignty is divided and shared, federalism of the distribution provides a different alternative in the organization 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) and the representation of the states at the federal level (strong versus weak). Therefore, the question raised is which model is the most realistic for a European federation. To begin with, 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 European Union cannot legislate without the consent of the Member States, even in the area of its exclusive competences such as the foreign trade. There are hardly any areas in which the Member States completely ceded sovereignty to a European level and do not directly participate in the decision-making.

Additionally, the European Council and the Council of the European Union could easily be 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 estimate that the members of the first parliamentary chamber should also become the members of the Member State parliaments. In conclusion, the German and European federal systems share a consensus-oriented political culture which the prevention of political stalemate to prevent political stalemate and allows the smaller members to achieve a fair chance of being heard, even if their voting power is curbed, which seems to be unavoidable given the prospect of EU enlargement.

The theory proposes two forms of federal organisation: *co-operative or intra-state federalism and inter-state federalism.*

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, on the one hand, to the institutional autonomy of the different levels of government, and, on the other hand, aiming at a clear vertical separation of powers. Thus each level should have an autonomous sphere of responsibilities when competences are allocated according to policy sectors rather than the policy functions. For each sector, one of the two levels of government

[86] Broyer Sylvain & Brunner Costa, *Que coûterait le fédéralisme fiscal à la zone euro?,* Economic Research, BPCE Group, n° 38/2 .2.2010.

has both legislative and executive powers. Consequently, the entire machinery of government tends to be duplicated where each level should manage its own affairs autonomously.

The question raised here is 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) initiated another debate on the future of the European Union, concerning the issues of political integration, democracy, and federalism. The strong levels of the elite support of the EU, the variable political integration and the democratic reforms, challenge some common assumptions on the matters of integration, sovereignty and democratic deficit. Moreover, evidence of an increasing "European" body of elites that support the federal-type sharing of authority, based on policy issues, come to light. Furthermore, the "core" of pro-EU states does not apply to the existent political integration and the increased EU authority. In conclusion, although the increasing decision making is supported widely at an EU level, there is also equal and related support for the making of the democratic reforms as a necessary condition for political integration.

After sixty years of Robert Schuman's vision of a "European Federation" for the preservation of peace, a completely new era in the history of Europe was inaugurated by Fisher's proposal tried to create a completely new era in the history of Europe. European integration was the response to the bandwagoning behaviour of the states during the two World Wars (between 1914 and 1945). The continuous struggle for power and peace and as a consequence the centuries of terrible hegemonic wars that dominated the world came to an end. After 1945, the concept of Europe as an idea had, and still has, to its core, the rejection of the European principle of the balance of power and the rejection of the hegemonic ambitions of the individual states, that had emerged following the Peace of Westphalia (1648). This rejection took the form of a decoy of the vital interests and lead to the delegation of the sovereign rights from the nation state to the supranational European institutions.

Europe and the process of European integration became probably the greatest political challenge among the people and the states involved because its success or failure, or even the stagnation of this process, would become of crucial importance to the future of the young generation.

What should be underlined here is that the European Union lacks one important feature of the German federation, which is likely to be replicable though at a European level. 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 supposed to provide similar living conditions for all German citizens, irrespective of the state they lived in.

Nevertheless it has yet to be decide how to preserve best a strong role for the Member States in the European federation; either by granting them a strong representation at a European level (German model), or by providing the Member States with a strong and autonomous sphere of competences (US model). While mostly leaning towards the US model, Fischer would 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) to achieve a strong representation of the Member states' interests at a European level.

A senate type concept, whence 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 a 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. In that case, the EU would need to dispose of legislative and executive competences, which would 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 to become a mere fig-leaf, veiling a return to the Europe of the nation-states.

3. US federalist model effects and the European particularities

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, are 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 the regulating of 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 is unable to handle complexities and technicalities which are required (in order to carry out specific laws)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 programs.

The US model of dual federalism, consecutively, 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 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 with 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 the state's executive interests are less dominant in a European level than in the German model, a vertically integrated party system which is still missing in the EU is of (lower) lesser importance. Nonetheless, the introduction of the American model of federalism may be even more demanding than the German model.

Firstly, divided sovereignty would require that most Europeanised legislation should be disentangled where 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 most likely to confront resistance from smaller Member States with low institutional and economic capacities.

Secondly, the Member States would have to give up their strong representation in a European level in order to grant the European federation independence in exercising the already considerable 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, that 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 the 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. Federal structure and European governance

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.

In Europe we need a common European administrative philosophy and structure. We consider that this perspective could be expressed by a Europeanized governance method. A well-organized administrative structure where the division of responsibilities takes place as procedural norm can increase the administrative efficiency of the EU's governmental parts resulting to a sustainable administrative system. The image of the European Union given by the EU Treaties is composed of three (governmental) 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 cross-sectoral comparison of trajectories of public action in Europe, shows the significance of a political logic that is (either) neither dominated by supranational actors (Commission, European Parliament, European Court of Justice), or by elected (and) or national administrations.

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.

Federal Structure can have positive influence on the administrative and organizational future of the European Union and constitute a system very interesting for the European Union administrative and organizational future. It can have both, positive and negative, impact on the efficiency of the EU governance. However, still one can find more insufficiencies which constitute EU governance problematic. There are some problems that contribute to a more problematic government/governance.

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 constitutional system reveals a certain paradoxical character which nature and scope remain constantly contested as it was the evolution from a functionally restricted common market in the 1950s that became the cornerstone of the constitution of a more complex political organization known as European Union.

The paradox lies in what appears to be as, on one hand, 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; on the other hand, and the reality of a highly reflexive and pragmatic form of governance that entails the expansion of EU activity in all policy fields into virtually all policy fields; a profound degree of interference 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 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 government. 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 a more effective policy-making process.

For the federal bureaucracy, the mechanism of the governance operates as a system of interconnected departments and agencies that deals 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 strengthen the formal democratic aspects of the process.

The first attempt to evaluate the impact of the Lisbon Treaty on EU decision-making system has to be interpreted under two perspectives.

Firstly, the resulting system by binding community multiple legal instruments is simpler and more efficient in terms of decision-making. *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 the credibility.

Before Lisbon, the Constitutional Treaty focused 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 on what is the role of EU while using a more approachable style for the 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 more created with more confidence that in the end results in institutional policy efficiency.

- **Accountability.** The Roles of the EU institutional components in the legislative and executive processes need to be more distinct. Each of the EU Institutions must explain and take responsibility of their operational field 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 in 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 actions 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 the efforts to increase the involvement of cities and regions within the procedures of the EU 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. 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 can deliver the objectives.

At last, it is necessary to know whether European integration is still dominated by inter-govern mentalist actors or whether this process follows logic where the actors receive more power from theories.

5. Functional priorities and objectives of the European society in order to track Federalist perspective

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, there is 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 indicate 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 terms 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, not least because as the methodology for obtaining data differentiates 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 the Members States contribution, the evidence that have been gathered through pilot projects suggests that they do not 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. Member States should be encouraged to contribute to the process, while 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 the Member States 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 a EU Common Methodology

On the basis of the findings of the pilot phase and the study of quantification efforts at Member State level, and despite the considerable optimisation, a great amount of work remains to be done on the Member States' level, lead the Commission to draw the following conclusions:

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 particularly when prioritising simplification work and monitoring progress in reducing administrative burdens, given the fact that (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 be therefore 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 a 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. *Firstly,* 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, as well as 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 though 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 EU 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 it 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 brings up , to a large extent, the issues that will be discussed 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.

In an effort to summarize 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 can 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 within 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 is being 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-ed system with full responsibility over all federal items.
- Three more (further) key elements are the subsidiarity principle, federalism and the secession right, which are best suited for (to) limiting the dominance of the central European authority under which certain tasks have been attributed, 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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Chapter 4
Research Report 1.3

REFORMS OF BULGARIAN PUBLIC ADMINISTRATION

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Introduction

The construction of Europe is having an increasing impact on the domestic policies of Member States. In the context of setting up a European administrative space, Community law affects basic principles, the process of opening up careers and working conditions for civil servants. Administrative co-operation between States outside the scope of Community competence has an impact in terms of social intercourse, the development of common methods and approaches and the invention of new instruments.

As far as administrative organisation is concerned, the consequence is that a often a common understanding of models, institutions, and concepts is taken for granted, whereas in reality clichés and misunderstandings dominate as soon as exchanges between officials and politicians go beyond a very strictly defined and restricted policy area. Management consultants, and also many academics, are not better at using the tools of comparative analysis, and it is therefore necessary to draw attention of policy-makers to certain key concepts and phenomena that need to be taken into account when reflecting upon the reform of public administration.

Practitioners often refer to "models", while social scientists familiar with Max Weber's categories refer to "ideal types". What these two formulations, which refer to a simplified description of reality for the purpose of analysis and evaluation, have in common is that they easily mislead listeners and readers into believing that a description or analysis is to be taken as a prescription (a model that would have to be followed and regarded as the ideal, in the sense of the best form). To avoid this danger, others (academics, as well as politicians, public officials and journalists) use the word "paradigm", which is only clear to those who know its etymology (The word paradigm comes from the Greek word παράδειγμα which means "pattern" or "example", from the word παραδεικνύναι meaning "demonstrate") whereas it is "a word too often used by those who would like to have a new idea but cannot think of one." (Mervyn Allister KING, former Deputy Governor, Bank of England (source Wikipedia, the Free Encyclopaedia, http://en.wikipedia.org)).

The term "paradigm" is very often used when addressing what is referred to as a "paradigm shift" (source Wikipedia, the Free Encyclopaedia, http://en.wikipedia.org), "European Models of Government: Towards a Patchwork with Missing Pieces, i.e. a change in the dominant concept or model, and is thus especially fashionable in the literature on reform and management of change. Much of the literature about agencification refers to a "paradigm shift" in the organisation of government. Although this might be true for single countries (the

UK in the 1980s especially), there is no empirical evidence that it is true for all or even the majority of European union countries, as many of the organisational forms examined under the topic of "distributed governance" have existed for 50 years or even a century or more.

This notwithstanding, it is important to realise that most western European systems of government indeed were built in the 19th-20th centuries, based on patterns that were similar enough to be considered as a "European standard model of administration", which is totally different from the Swedish and US models of government (Jacques Ziller (2001), "European Models of Government: Towards a Patchwork with Missing Pieces" in Parliamentary Affairs, pp. 102-119).

Establishing effective administrative structures in Bulgaria and attaining high-quality administrative service delivery focused on citizens and business, will contribute to enhancing the competitiveness of the country. Applying good governance principles, introducing information technologies (IT) in the work of the state administration, as well as developing the competencies of the civil servants, form an integral part of the implementation of the reforms.

The activities on the modernisation of the state administration are fully in compliance with the priorities in European union and objectives of the Lisbon Strategy. The aim is to enhance transparency and to improve administrative service delivery through higher effectiveness of the state administration. This is a precondition for achieving sustainable economic growth and more and better jobs.

The Ministry of State Administration and Administrative Reform (MSAAR) was established with a Decision of the National Assembly of the Republic of Bulgaria from 16 August 2005.

The MSAAR set itself the ambitious task to contribute to the building of the necessary administrative capacity and to the overall modernisation of the Bulgarian state administration. This objective is in line with the European initiatives for achieving a better functioning society and a more competitive and effective economy through:

- Decreasing the distance and mistrust between citizens and institutions
- Enhancing communication, transparency an broader access to information
- Improving business environment

The main priorities of the MSAAR for the period 2006 – 2009 were:

- Modernisation and organisational development of the state administration
- Training and development of human resources
- Development of the e-government
- Improving and streamlining the administrative regulation and service delivery
- Enhancing transparency and integrity in the state administration
- Contribution to the process of European integration and administrative capacity building under the conditions of full-fledged EU membership. Regional coordination

After the Parliamentary Elections 2009 MSAAR become part of Ministry of Finances.

The strengthening of the institutional and administrative capacity is a new priority for the next programming period 2007-2013, and the Member States are given the possibility to use resources from the European Social Fund. The recommendation of the European

Commission concerning the elaboration of an Operational Programme "Administrative Capacity" (OPAC) was addressed to Bulgaria is in response of the need for developing and strengthening the administrative capacity (at all levels – central, regional and municipal) for effective and efficient work in the context of EU membership.

1. Situation analysis of the state administration

The reform of the state administration started some time before Bulgaria's accession to the EU with the strong support of the European Commission. In the year 2000, one of the key recommendations of the Commission to Bulgaria as a candidate country made in the PHARE 2000 review was that the country should revise and reconsider fundamentally its public administration reform.[87] Since 2003, following the adoption of key legislation, reforms in various spheres of the administration have been undertaken following the general European trends and good practices, given that at the European level there is no single strategy for strengthening the capacity of the state administration nor is there a unified model for its most effective functioning.

In recent years the reform of the Bulgarian state administration has been relying on national funding as well as on support from the PHARE pre-accession programme. In the 1998-2006 programming period PHARE's support for the reform of Bulgaria's state administration and judicial system totalled about EUR 304 mln. The goals and outcomes expected from this support for the period 2004-2006 were set out in the Multiannual Programming Document of the Ministry of Finance (MF). The focus of support in the area of state administration reform shifted from assistance to amendment the legislative framework towards the problems related to its enforcement as well as to anticorruption measures.

The opportunities for improving the quality of human resources provided by the EU Cohesion Policy, and in particular by the European Social Fund, will be used for the successful continuation of the administrative reform. This will help improve the business environment and strengthen the competitiveness of the Bulgarian economy.

The analysis provided herewith presents the state of the administration at 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 2007 to 2013 period.

2. Legislative framework

2.1. Regulatory acts

Over the past few years the Bulgarian government adopted and improved the key legal acts on the structure and functions of the administration and the necessary secondary legislation for their implementation[88]. In 2006 important amendments were made to the two basic acts in this sphere: the Law on Administration (LA) and the Law on Civil Servants (LCS). The LA amendments were related to the implementation of the administrative reform: distinguishing the political from the administrative level in the state administration, regulating the policy-making process and creating effective internal control. The LCS amendments continue the

[87] PHARE 2000 Review *Strengthening Preparations for Membership*. Communication from Mr Verheugen. COM(2002)3103/2 October 2000.
[88] See Annex 3.

process of modernisation of the Bulgarian state administration in the area of human resources management and aim at improving the status of civil servants and increasing their motivation.

An Administrative Procedure Code (APC) was also adopted in 2006. It constitutes an important step in the establishment of a responsible and transparent state administration. The APC will help to improve administrative service delivery and also responds to the need to create a systematic and unified legal framework regulating the procedures for issuing and appealing against administrative acts. The principles of accessibility, publicity and transparency of administrative proceedings were introduced.

A Law on e-Government was adopted at the end of May 2007. It will lay the ground for a substantial reform in the administration's work thanks to the introduction of new information technologies and the parallel use of paper and electronic documents. The law envisages the automation of administrative procedures, the introduction of transparency in administrative processes and a reduction in the opportunities for corrupt practices as well as a reduction in administrative costs.

2.2. Implementation of the legislation

Effective and efficient implementation of the legislation is a process which requires well planned activities and coordination between all stakeholders.

The improvement of the legal framework is a necessary step towards increasing the efficiency of the central and territorial administrations, improving administrative services, reducing the costs of the business sector and the citizens for working with the administration and optimising feedback mechanisms.

However, this transformation cannot be done by legislative measures alone. What is also needed is a common understanding of the essence of the changes, the development of an administrative culture and adequate political support. In addition, the effective and efficient implementation of legislation is a process which requires well planned activities and coordination between all stakeholders.

The first step to overcome these obstacles has been the creation of the Ministry of State Administration and Administrative Reform (MSAAR).. The Ministry has defined the main priorities based on the principles which were introduced during the previous stages of the reform: training and human resources management in the state administration, improving administrative service delivery and regulation, development of e-Government, continuing modernisation and enhanced transparency and accountability.

The MSAAR has elaborated different instruments with which to support the implementation of these priorities[89]. With the opportunities and resources of OPAC the Ministry has the central task of creating the preconditions for a successful completion of the administrative reform.

The legal framework for the state administration reform has now been to a large extent adopted and its scope is satisfactory. The main challenge will be to ensure its effective

[89] For example: The Transparency Programme for the State Administration and the High-Level State Officials Activity, Human Resource Management in the State Administration Strategy, Strategy for Training the Employees in the Administration, Law on e-Governance.

enforcement in the coming years. At the same time an efficient system for monitoring the implementation of strategies and the enforcement of legislation needs to be set up.

3. Administrative Structures and Institutional Building

The administration cannot function effectively without a clear vision on the institutional building of the administrative structures. At this stage the main priority of the reform in the administration is its **optimisation** at central, regional and municipal levels through modernisation and organisational development. The creation of new administrations, the restructuring of existing ones, the closing down of ineffective structures and units, their optimisation, as well as their organisational development are not aimed at achieving **a larger, but a better organized, more effective and politically neutral administration.**

3.1. Structure of the Administration and Distribution of Functions

The administration of executive power in Bulgaria is performed at **central and territorial levels**[90]**.** In 2008 the total number of administrative structures was 551. The central administration includes the administration of the Council of Ministers (CoM), the ministries, executive agencies, state commissions, administrative structures established by a regulatory instrument. The territorial administration includes regional, municipal administrations and specialized territorial administrations established as legal entities by a normative instrument. The total number of **administrative structures in the central administration is 113** (including the administration of the CoM)[91].

The 28 regional administrations support the activities of the governors. **The governor** is the sole executive body in the region. He/she is appointed with a decision of the CoM to which it reports. He/she exercises state power on the territory of the region, coordinates the work of the executive bodies and their administrations, as well as their interaction with the local authorities, ensuring compatibility between national and local interests in regional policy-making[92]. The activities, structure, organisation of the work and the composition of the regional administration are defined in Rules of Procedure adopted by the CoM. **However, mechanisms have not been created yet for the effective performance of the governor's coordinating role** regarding the deconcentrated administration (the territorial units) of the central executive power.

Bulgaria's 264 municipalities are the basic administrative-territorial units carrying out local self-government. They are established by the CoM according to a procedure specified in the Law on Administrative and Territorial Structure of the Republic of Bulgaria (LATSRB). Mayoralties and districts are composite administrative – territorial units of municipalities[93]. **The municipal administration** supports the activities of the municipal councils and the mayors of municipalities, districts and mayoralties. **The mayor** is the executive body in the

[90] Law on Administration (Art. 37) (see Annex 3).

[91] For approximation with the European requirements for Nomenclature of the territorial units for statistics (NUTS), Bulgaria is divided into: two non-administrative-territorial units (North and South Bulgaria) at NUTS 1 level.
6 planning regions at NUTS 2 level; 28 regions at NUTS 3 level.

[92] Law on Administration (Art. 29 et seq.) (see Annex 3).

[93] Mayoralties and wards established by law shall be set up by the municipal councils according to the procedure stipulated by the LATSRB; there are a total of 35 areas in the three largest cities, established by the Law on Territorial Division of Sofia Municipality and the Large Cities (LTDSMLC).

municipality[94]. He/she manages all municipal executive activities, organises the disbursement of the municipal budget and of the implementation of long-term programs, organises the implementation of the municipal council's acts and participates in its sessions with the right to an advisory vote; approves the Rules of Procedure of the municipal administration.[95]

The territorial units of the central executive power, which are deconcentrated units of the separate ministries, form part of the central administration and are quite different in territorial scope, status and internal structure. Even though they employ around 60% of the total state administration, **until now** the deconcentrated units have remained **outside the scope of the reforms implemented in the country** – since 1998 the administrative reform has focused more on the civil service and the management of human resources.

The **lack of effective interaction and links between the territorial units and the municipal administrations** has serious negative consequences. The effectiveness of sectoral policies at municipal level, and therefrom at national level, must be improved.

The distribution of responsibilities, rights and resources between the central, regional and municipal level of government is linked to the process of optimisation of the administrative structures. The new strategic approach set out in the **Decentralisation Strategy** of June 2006[96] requires that this distribution be carried out in connection with the other reforms and processes in the country. The Strategy contains commitments for a deepening of the decentralisation process, an increase in the municipalities' own revenues, an improvement in the quality of services and an increase in the living standard of citizens. The implementation of the Decentralisation Strategy and the Programme for its Implementation for the period 2006-2009 are managed and coordinated by the **Council for Decentralisation of State Governance.** The Decentralisation Strategy is financed by the national budget. The report on the implementation of the Strategy and its Programme in 2006 was adopted in early June 2007.[97]

Until recently, the major problem faced by the local authorities, and more specifically the municipal administrations, was the discrepancy between their powers and functions on the one hand and the insufficient resources at their disposal on the other. This was changed by the latest amendment to the **Constitution of the Republic of Bulgaria[98]** – a new procedure for establishing taxes and fees and determining their level was introduced whereby municipalities are entrusted with the power to:

- determine the level of local taxes;
- determine the level of local fees.

In 2006-2007 the process of **transfer of functions from the central to the municipal administration** continued, for example in the areas of registration of agricultural and forest

[94] Law on Administration (Art. 33) (See Annex 3).
[95] Law on Local Self-Governance and Local Administration (Art. 44) (see Annex 3).
[96] See Annex 3.
[97] According to the report, of 29 measures planned for 2006, 12 have been implemented, 15 – partially implemented and 2 have not been implemented. The financial state of the municipalities has improved significantly in 2006. The actual growth in municipal revenue is above 10%, the share of capital expenses of the local authorities reached 21% and the expensed for local services surpasses delegated services by 52.6%. In the past year consensus for Constitutional amendments was reached, which is the first step towards giving tax powers to the local authorities. Also the first changes aimed at consolidating the investment transfers for the municipalities were completed; http://www.government.bg/cgi-bin/e-cms/vis/vis.pl?s=001&p=0175&n=002330&g=
[98] Law Amending and Supplementing the Constitution of the Republic of Bulgaria (promulgated SG No 12/06.02.2007) – Fourth amendment (§ 5, § 11) (see Annex 3)

equipment, administration of local taxes and fees[99], homes for bringing up children deprived of parental care[100].

The main challenges in the reform of administrative structures at the various levels of the executive power are related to:

binding the modernisation of the state administration with the decentralisation process

improving the functions and structure of the territorial units of the central executive power

supporting the activities of the governor in ensuring compatibility between the national and local interests and in the role of coordinator of the actions and activities of the heads of territorial units of the central executive power

improving the links between the territorial units of the central executive power and the municipal administrations in the region.

2.2. Instruments for Monitoring and Reporting on the Development of Administrative Structures

The Law on Administration regulates the creation of a public Register of Administrative Structures and of the executive bodies' acts to support the achievement of openness, accessibility and coordination of the state administration's work. Information on all executive administrative structures, the regulatory regimes, the total staff numbers, the occupied and vacant staff positions and notices for competitions for civil servants shall be added in the Register.

Since 2003 there has been a significant drop in interest towards the Register, the reasons for which may be sought in the accuracy and actuality of the published information. In 2006 only 46.4% of all administrative structures reported that they had adopted an internal organisation for collecting and registering data in the Register.

A new Internet-based Administrative Register maintained by the MSAAR[101] was created in 2006 in relation to the amendments to the Law on Administration,. It will combine the Register of Administrative Structures and the Register of Civil Servants "under one roof". The new Register will ensure **free real time access by the administrations, citizens and businesses** to more detailed information on the structures, regimes and administrative services. The launching of the new Register is planned for mid 2007.

The successful establishment of the Administrative Register should be followed by measures to guarantee its successful work as well as its regular updating and use for analyses on the state of the state administration.

[99] Report on the State of the Administration, 2006, p. 30, Annual%20Report%20%202006_26.07.2007.pdf
[100] Annual Report on the Implementation of the Decentralisation Strategy and the Programme in 2006; http://www.government.bg/cgi-bin/e-cms/vis/vis.pl?s=001&p=0175&n=002330&g=
[101] Law on Administration (Art. 61); (see Annex 3); Ordinance on the Procedure and Conditions for Keeping the Administrative Register, in force as of 1 May 2007.

Another instrument for providing information on the administrative structures and the results of their work are the **annual reports** on the activities and state of the administration. Their preparation and publishing, as well as the related system and deadlines, are regulated by regulatory acts[102].

The heads of administrative structures (ministries, state commissions, state and executive agencies, regional and municipal administrations) prepare annual reports on **the activities of their structures**. They report on their performance towards the achievement of the strategic goals and priorities which are set in the programme of the CoM. The reports are published annually by 28 February on the web-site of the respective administrative structure.

Every year, by a deadline set to be 1 March, the heads of the administrative structures in the system of the executive power must present to the Minister of State Administration and Administrative Reform **annual reports on the state of their respective structures.**

As a result of the legislative measures which regulate clearly the deadlines and possibilities for publishing reports on the activities and state of the administrations, greater publicity and accountability has been achieved on the activities of the administration, as well as greater security regarding the availability of current information on it.

The fact that some administrations still do not report their activities or do not provide comprehensive information in the reports is a problem that must be solved. This would not only give a clear idea of the activities of these structures, but would also assist in the identification of measures necessary for their optimisation and for improving the overall process of policy-making and implementation. In order to guarantee effectiveness and to harmonize the future organisational development of the administrative structures with the reported results, a mechanism for performance measurement must be developed (including criteria for measuring administrative effectiveness).

4. Transparency and integrity of the state administration

4.1. Transparency and accountability

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 Servents), 2006.[103]

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**

[102] Law on Administration (Art. 62); (see Annex 3).
[103] See Annex 3.

openness and transparency of the administration's activities have received **exceptionally high levels of support (80%)**[104]**.**

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 2007[105] senior level officials a 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.[106] 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.

Within the deadlines provided by law, 816 declarations have been submitted by officials when taking office. The National Audit Office publishes on its website the list of persons that have not submitted their property declaration within the deadlines stipulated by law when taking or leaving office. From 15 May until now the National Audit Office has processed 5,515 declarations and notices. A list of the officials who have not submitted their declarations in the specified timeframes has been sent to the National Revenue Agency.

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 MSAAR has identified 74 cases of non-submitted property declarations[107] and 63 non-submitted declarations for conflict of interest[108] 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 servents)[109] 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%).

[104] 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 (p. 3).
[105] Law Amending and Supplementing the Law on Publicising the Property of the Senior Civil Servants prom. SG No 73/05.09.2006.
[106] Such as the Ministry of Finance, the Ministry of Transport, the Ministry of Agriculture and Forestry, the Ministry of Regional Development and Public Works.
[107] Civil Servant Act (Art 29).
[108] Civil Servant Act (Art. 29a, para 1).
[109] http://www.mdaar.government.bg/programmes.php

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 developing[110]. 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.

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.

4.2. Anticorruption policy

According to a survey conducted among the users of administrative services[111], 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 greater part of the objectives of the **National Strategy for Counteracting Corruption 2001** has been achieved, also with the help of PHARE Programme resources – institutions for counteracting corruption in the country have been created; legislative measures have been or are to be adopted, the work of the state administration has been improved[112].

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

[110] 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

[111] Inquiry among the users of administrative services conducted by Transparency International in the period 15-30 November 2006 (p. 3).

[112] Report on the Implementation of the National Strategy for Counteraction of Corruption for the period 2004-2005, http://www.acc.government.bg/documents/otchet-2004-1.doc

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 anonimous.

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%[113].

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 pourpose of prevention given to identfied cases of corruption, implementation of a system of "single receipt" payment and a system of random distribution of shifts.[114]

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 exemple 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.

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.

[113] The feedback mechanisms are described above in V., 3.1. Transparency and accountability.

[114] Report of the European Commission on the progress of Bulgaria in the implementation of the accompanying measures after accession 27.06.2007, page 19, http://www.evropa.bg/bg/del/info-pad/press-releases/doklad.html

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 administration[115], 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.

5. Policy-making and strategic planning

The process of policy-making includes **all steps starting from policy conception, strategic planning and impact assessment up to its adoption and implementation through the respective normative acts.** It requires good interdepartmental coordination and good publicity in order to take into account the interests of all stakeholders. For guaranteeing the achievement of set goals, the effective implementation management, monitoring and follow-up assessment of policies and their impact are of a great importance

The process of a genuine linking of policies and strategies with the budget and with the necessary human resources, as well as development of strategic planning capacity started in 2004. Since 2006 the process of **strategic planning and policy-making** is regulated by law[116]. The CoM is legally bound to adopt a programme defining the **strategic priorities of the government** during its mandate. Based on the priorities of the government, the ministers set **annual goals for the activity of their administrations** and control their performance

The CoM[117] proposes **standards for making strategies and sector policies,** and supports the administrations in performing impact assessments when developing their strategies.

In the beginning of 2007 more than **400 strategic documents** were in force in Bulgaria: 117 strategic documents on central level, 6 regional development plans, 28 regional development strategies and more than 250 municipal development plans. The large number of strategic documents has resulted in a low horizontal interaction of the administrations under the

[115] See below.
[116] Law on the Administration (Art. 2 (6)); (see Annex 3).
[117] Strategic Planning and Management Directorate of the CoM.

different strategies and in to limited attention to the **inter-sector priorities for the development of the country.** The strategies do not show their complementarity with neither their demarcation to other documents; this is though needed in order to show that policy is integrated and has a clear impact on development.

The skills to define realistic goals of public significance and the capacity to set the administrations's priorities are insufficient, including on the part of the political cabinets and leading staff both of which play a key role in strategic planning. Usually a large number of goals are specified but they are not prioritised in time which leads to inefficiency and dispersion of efforts. The **limited analysis and planning skills** in the administration make it necessary to resort to consultants when elaborating strategies. To a certain degree, this explains the lack of ownership by the administration during the implementation of strategies.

In order to ensure good policy-making attention should be paid to the development of analytical skills of civil servants, including Senior civil servants and political leadership, as well as to the collection and use of data (current statistical information, scientific studies, sociological research). Administrative structures should define few but achievable goals addressing real problems and leading to further development.

There is a need to develop a unified approach for strategic planning and to elaborate detailed action plans, which requires substantial methodological support from the central level. It is necessary to develop practical manuals for strategic planning as well as for the overall policy-making process and they have to be promoted at all administration levels.

5.1. Consultation and coordination

State bodies are legally bound to coordinate their activity and to consult the social economic partners (SEP) and civil society in order to guarantee an integrated state policy[118]. The coordination mechanisms as well as the process of consultations aiming at including a broad range of stakeholders are an **important part of the process of policy-making (strategic planning, impact assessment), of policy implementation and of the assessment of achieved results.**

The good interaction within the administration and the **improvement of the horizontal culture will remain a challenge** in the next few years. Consultative bodies are still working in parallel which involves a duplication of activities. **Obtaining information on the work of committees, councils and working groups is still a problem** for the different stakeholders.

All regional and almost all municipal administrations have also established advisory and coordination mechanisms. The functioning of committees, councils and working groups is also an operational way for the **interaction of the central administration with the regional and municipal administrations** with the objective of achieving the goals of local self-government and regional policy. Nevertheless, this interaction is considered ineffective or insufficient to guarantee good policy coordination.

[118] Law on the Administration (Art. 2 (7)).

The municipalities indicate that their membership in the **National Association of Municipalities of the Republic of Bulgaria** (NAMRB) is the mechanism to coordinate the activities of the different municipal administrations as well as their interaction with the bodies of the executive and the NGOs. An agreement between the **CoM and NAMRB** was signed in 2005. It envisages: to improve cooperation in order to create a constant dialog to evaluate the performance of the existing policies; to include representatives of municipalities when drafting legislative acts on important issues that refer to local self-governance; to promote greater participation of NAMRB representatives in advisory, managing and monitoring bodies which belong to the central executive power; to include representatives of the local authorities in the planning, programming, management, evaluation and control of the implementation of plans, programmes and projects funded by the SF and the CF of the EU.

The large number of advisory bodies leads to duplication of efforts, overlapping of functions and poor accountability. The efficiency of the existing advisory bodies is unsatisfactory – there is a need to optimise their structure, to specify their functions and positions of staff, to increase the interaction with the NGOs.

A thorough analysis should be made in order to optimise the structure of established committees, councils and working groups. There is a need to create systems which can guarantee that information on the work and decisions of the advisory bodies reaches all stakeholders in and outside the administration (through electronic information bulletins, information data bases and online discussion forums).

For the process of developing and implementing planning documents, it is of great importance to establish effective mechanisms for coordination, consultation and partnership between the administrations from different levels as well between structures at the one and same administrative level. The capacity of municipal administrations for making and implementing local policies and for participating in the process at central and regional level should be increased. In this respect, it is important to strengthen also the capacity of NAMRB for performing its functions.

Besides improving the internal administrative coordination, it is also important to fulfil the **need for strengthening cooperation with the business sector and the civil society structures.** During the last three years planning with the involvement of stakeholders has become common practice. In the process of consultation and coordination, **civil society** has actively been included by participation in the **Councils for Trilateral Cooperation.** Still, the analyses show that not all concerned stakeholders are involved in the process of developing strategic documents and which explains their weak commitment to the implementation of strategies.

The mechanisms for public discussions and dialogue on key issues are still insufficiently used by the state bodies on central and local level[119]. The process of **public consultations** should win recognition as part of the impact assessment. The creation of an integrated portal for strategic planning and public consultations is planned in order to enable citizens, civil society

[119] Annual Report of the Ombudsman for 2006 http://www.ombudsman.bg/SiteUploads/ombudsman_report2006_LRes.pdf, p. 40.

structures, business sector, legislative and judicial power to make in the same place their comments and proposals on the development strategies of the country.

The existing forms of consultation with all stakeholders have to be improved and applied more regularly and expediently. The planned integrated portal for strategic planning and public consultations will be a useful tool for policy-making.

The capacity for using consultative and coordination mechanisms should be improved through developing skills for carrying out consultations with the different stakeholders on specific topics, for evaluating their proposals and for drafting alternative decisions for policy implementation.

5.2. Preliminary impact assessment

The skills of the state administration employees **for conducting impact assessments** which is an important part of the process of policy-making and preparation of legislative amendments are still insufficient. The practice of impact assessment is also not completely regulated.

Two directorates in the CoM have responsibilities with respect to impact assessment[120]: they make assessments of the impact on the legislation of acts proposed for discussion at a meeting of the CoM; they also make assessments of the impact of EU law on the national legislation.

During the last years, the preliminary assessment of impact on the environment and on the state budget (financial justification) has been introduced for all acts before their submission to the CoM for discussion. The following impact assessments are not conducted: impact assessment on economic development and mostly on the small and medium size enterprises and their competitiveness, impact assessment on users and impact assessment on socio-cultural development.

The need for better quality of policies and normative acts, including their harmonisation with the EU legislation, requires analyses, consultations and coordination. This is why it is important that such obligation is regulated by law. A coherent analysis of the need for legal, institutional and structural changes has to be made.

The process of preliminary impact assessment should be extended to the elaboration of all policies as well as to the assessment of their impact on different fields and target groups.

For strengthening the capacity for policy-making, specialised training programs have to be developed, covering all issues related to strategic planning, policy consultation and preliminary impact assessment.

[120] Rules of Procedure of the CoM and its administration, adopted with Decree of the CoM 216 of 12/10/2005.

5.3. Management of implementation, monitoring and ex-post impact assessment of policies

The management of implementation, monitoring and ex-post impact assessment of policies are important both for achieving set goals as well as for better defining and prioritising them.

Regarding the **implementation of policies and set strategic goals** in 2007, 59.4% of the administrations indicate that they have not achieved some of their long-term goals. The most frequently mentioned reason for not fulfilling the goals is the lack of funding. Good administration is of great importance for the optimum use of the limited financial resources.

The Bulgarian state administration has still **a weak culture of performance evaluation** of strategies and of ex-post assessment of their impact. The indicators that are applied for measuring results do not show the effect of the conducted policy. The activity of the administration will concentrate in the future on **new models of strategic management in the public sector.**

Efforts should be made for performing ex-post impact assessments of regional policies on the business sector and the citizens. A feedback system from municipal and regional to central level needs to be developed for the process of policy-making, policy implementation and ex-post impact assessment.

Civil society involvement in the evaluation of achieved goals should be guaranteed, especially when evaluating the significance of achieved goals and the economical use of public funds.

For better policy implementation, especially with respect to the restricted financial resources, it would be good to introduce and establish new approaches and techniques for strategic management, similar to those that are successfully used by the private sector. It is necessary to develop and apply systems for implementation management which have reliable indicators for effectiveness; proper evaluations of the administration activity should be made, and the skills of the state administration employees should be improved in order to ensure good governance.

6. e-Governance

E-Governance is a modern method for the functioning of state administration using information and communication technologies (ICT). It is a **tool for the improvement of administrative service delivery, enhancement of state administration effectiveness and the optimisation of costs.** The introduction of e-Governance improves the transparency in the activity of the administration and the accessibility of services. It **reduces the time** and efforts of the citizens and the business sector in their communication with the administration. E-Governance covers four major groups of relations (communication and service directions): administration – citizens, administration – business sector, administration – administration, administration – employees.

At present there is already **an overall concept for the development of e-Governance in Bulgaria.**

Bulgaria is lagging behind the EU member states in the process of developing e-Government.[121] The analysis of the reasons for this situation enables the identification of the necessary measures for its development to a level meeting the European requirements. Currently, four major reasons for the insufficient establishment of e-Governance in Bulgaria can be advanced:

- the lack of appropriate legislation;
- the lack of interoperability of the administration's information systems;
- the lack of adequate electronic exchange between the administrations as well as;
- the unsolved issue of data unification.

6.1. Improvement of the basic legal and strategic basis for e-Governance development

An important element for the development of the e-Government is the adoption of legal documents related to the introduction, application and the operation of the ICT (strategies, plans, architectures, work process description, procedures, manuals and regulations). They will help the activities of the state administration in the area of e-Governance to be streamlined and consistent.

The implementation of the e-Government Strategy 2002-2007 was completed successfully in 2007. This strategy sets the goals and development principles of the information systems related to the services delivered by the state administration as well as with the common framework for development of the information technologies in the Bulgarian administration. Currently a **new e-Governance Strategy with a road map is being developed**. These documents will be adopted at the end of 2009. In order to ensure sustainable implementation of projects in the e-Government area an overall framework for their long-term financing should be established.

The National Assembly adopted the **Law on e-Governance** on 30 May 2007.[122] This law regulates the electronic delivery of administrative services to citizens and the business sector, the processing of electronic documents within an individual administration, as well as the exchange of electronic documents between the state authorities. With this law the delivery of administrative services online will become mandatory for all administrative bodies, for persons performing public functions (Public Notaries, state and municipal schools, etc.), as well as for the organisations delivering public services (educational, health services, heat distribution and energy distribution, telecommunications, postal and other services).

A significant progress has been made in the adoption of the legislation on e-Governance development. It is necessary to develop and adopt the missing laws and subordinate legislation in that field, as well as to start applying the legislation in place. The strategic documents and the plans for their implementation need to be updated, providing for sufficient funding from various sources.

[121] Report on e-Bulgaria, 2006, page 56, http://www.mdaar.government.bg/docs/eBulgaria2006.pdf
[122] Promulgated SG 46 from 12 June 2007.

6.2. Organisational capacity and human resources for e-Governance development

Organisational Capacity

About half of the administrative bodies undertake **actions for e-Governance development** and e-services delivery to the citizens and the business sector. In 2006 there was a clear trend towards an increased share of administrations that have defined the roles, the rights and obligations of the civil servants responsible for the implementation of particular measures related to the development of e-Government. The number of administrations that declare they have the necessary qualified personnel for the implementation of projects in the area of e-Governance has increased[123].

At the same time a significant share of the employees responsible for introducing e-Government related services are still dealing with in the technical maintenance of the hardware and software infrastructure and not with e-services projects. The development of e-Governance requires a change in the work methods of the employees in the administrations and in their communication with the citizens and the business sector.

A prerequisite for this is the **correct understanding of the e-Governance concept.** Most of the administration employees perceive e-Governance as a way of publicising electronically the available administrative activities, as something separate which does not directly reflect upon the daily activities of the state administration and as a task which only concerns the ICT experts. It is necessary to clarify the fundamental aspects of e-Governance as an integrated process that simultaneously combines administrative reform, optimisation of all administrative processes and full utilisation of the ICT opportunities.

The development of e-Governance is a process which has to begin from the administration. This involves the delivery of training and information campaigns to promote and explain fundamental aspects, principles and objectives of e-Governance as a new and modern governance approach.

Informational resources

Most of the central administrations maintain information systems; their purpose is to ensure creation, storage and processing of data necessary both for fulfilling their direct functions and for delivering administrative services, including e-services. The lack of national strategy and standards in this field as well as the different time of establishment have lead to the use of a great variety of technologies, architectures, means of access, document formats etc. There are almost no practices of automated data exchange between different systems, even within one institution. This leads to the irrational use of resources, to data duplication, repeated introduction of identical information and many other negative practices.

The lack of integration of the information systems at interdepartmental level is also accompanied by a lack of practices for the centralisation of resources of common interest, such as the Geospatial informational system for example. The availability and accessibility of updated, full and correct geospatial data from different sources and in different spheres considerably enhances the possibilities for the administration to exchange information within

[123] Report for the administration status, 2006, p. 135.
http://www.mdaar.government.bg/docs/Microsoft%20Word%20_%20Doclad_08%2005%202007_graf1.pdf

the state and local power as well as with the EU. At present, the geo-data in Bulgaria is collected, stored and maintained by the separate authorities for their specific needs which lead to duplication of expenditure for collecting and maintaining the same data, as well as to limited possibilities for effective interaction between different institutions.

In order to implement the Directive 2003/98/EC on the re-use of public sector information and to avoid the current practice, an institutional framework has to be created and the capacity of the state administration has to be improved for the introduction of centralised information systems in the directions of common interest, such as a single portal for Geospatial information, e-mail, e-ID cards etc.

Where there is a strong sensibility and necessity of keeping the independence of the informational systems, measures for their integration have to be undertaken.

Electronic services

The development of electronic administrative services at central and local level is to a great extent related to the fulfilment of commitments under the E-Government Strategy to guarantee the provision of **20 indicative electronic administrative services** as set forth by the EC – 12 for the citizens and 8 for the business sector.

The degree of completion of the 20 indicative administrative e-services in Bulgaria is lower than the EU average. The lagging behind of Bulgaria shows that exchange of experience and best practices with EU member states is necessary.

It has to be noted that the development of electronic administrative services **for the business sector is much more advanced than the one for citizens:**[124]

- 40% of the companies and only 5% of the citizens are using e-services;
- 84% of the companies are fully or partially informed about the e-services delivered by the administration;
- About 70% of the citizens are not acquainted with the e-services offered to them by the administration.

An indicator of the **changes which are taking place in the communication between the business sector and the institutions** is the fact that the share of users searching first in the Internet the solution to a problem (need for information) is increasing significantly. This fact shows **a trend of transition from traditional communication towards e-communication.**

Most users consider that **the e-services available at present are insufficient.** Their most frequent **requirements** with respect to administrative e-services are that they should be cheap or free, easily accessible via an Internet portal, delivered fast and that there should be guarantees for the security and reliability of the information sent and received. In order to encourage the use of e-services, the state should periodically conduct **information campaigns,** explaining the types of services provided and the advantages of working with the administration electronically.

[124] Alpha Research survey on the readiness of citizens and the business to use electronic administrative services, conducted in February 2006.

Interoperability

A major problem in the implementation of e-governance is the lack of interoperability, of unified standards and rules for handling e-documents.

In 2007, the government adopted **a National Interoperability Framework for the information systems of the executive authorities.** It includes the establishment of a Register of Standards which have to ensure interoperability, the establishment of an Information Units Register and an E-services Register. An Instruction on the procedures and conditions for the certification of institutional information systems in accordance with the European standards was also approved. This will ensure the interoperability of the information systems of different institutions in the process of e-service delivery. The National Interoperability Framework is the document, which shall guarantee that Bulgaria meets the requirements for integration of EU member states national systems in order to enable trans-border electronic services. Bulgaria shall also comply with the **European Interoperability Framework.**[125]

By the end of 2009, **a centralised integration system of the e-government** will be put into operation under a project financed through the national budget. It will serve as the integration environment for the existing independent information systems in the state administration and will be the basis for a common document exchange environment. A **pilot integration system of** an **e-region,** which will integrate the local and regional level information systems, is also being developed**.**

With the implementation of the two projects a unified information environment will be established to provide electronic services by the central, regional and municipal administrations. They will provide the electronic exchange of documents between all units of the central and local administrations for performing the requested services. With the implementation of the two projects a technology environment will be established which will ensure:

- Unified portal for access to all electronic services at all times and from everywhere;
- On-line description of all administrative services;
- Simplified user-friendly interface for ordering the services, including for people in disadvantaged position;
- Unified design of the portals of the regional and municipal administrations through establishment of unified standards;
- A possibility for the citizens and the business sector to electronically trace the execution of the services they have ordered.

These two projects have considerable importance for the development of e-governance in Bulgaria and they are both financed through the budget of Ministry of Finance. As the accelerated introduction of the e-government is a key priority of the Ministry, the latter envisages a significant part of the hardware realisation of other similar initiatives in the e-government area to be financed through the state budget. In accordance with the specific goals of the European Social Fund OPAC will support mostly the implementation of the analytical part of the development of e-government.

[125] The initiative was adopted at the Seville Summit in June 2002; the framework was published in January 2005 and was created as a result of the "e-Europe 2005" initiative.

Since mid-2007, the introduction of the e-governance in Bulgaria entered into its major phase.[126] The most important for its successful implementation will be to monitor the enforcement of the legislative basis and strategic documents adopted in this field. Among the main challenges for e-governance development are:

- **transition from hard copy to electronic document flow;**
- **reaching interoperability among the various systems in the administration;**
- **improvement of the centralised integration e-government system;**
- **implementation of the pilot e-region system throughout the country and its integration with the centralised system;**
- **training of employees to work with e-government systems.**

The overall funding of e-government projects will be provided both by the national budget and by the SF. The activities under OPAC shall be consistent with those under OP Regional Development and OP Development of the Competitiveness of the Bulgarian Economy, aiming at achieving an integrated approach to projects preparation.

SWOT ANALYSIS OF THE STATUS OF THE STATE ADMINISTRATION

Strengths	Weaknesses
Continuity of the administrative reform Established legislative framework Setting up of Ministry of Finances as the responsible institution for the administrative reform implementation Progress in the development of the rules and system for human resources management and for encouragement of career development Establishment of the administrative infrastructure for performance of external and internal control over the work of the administration – the system of Inspectorates, the National Ombudsman Good educational level of the employees, especially in the central and regional administrations Established educational and training institutions and introduced system for training of the employees, especially those entering into position Introduced general rules for administrative service delivery and the "one-stop-shop" principle	Weak effectiveness of the users' feedback mechanisms Incomplete reorganisation of the administrative structures, especially the territorial units of the central executive power Weak internal and interdepartmental coordination, particularly on regional level and between the territorial units of the central executive power and the municipal administrations Underdeveloped mechanisms for policy-making Underdeveloped mechanisms for assessment of policy implementation, for quality of services provided and satisfaction of users Limited application of models for quality enhancement and effectiveness of the activities performed by the administration such as outsourcing and PPP Underpayment and lack of qualified employees, especially in the small municipalities

[126] e-Bulgaria Report, 2007 (page 56) http://www.mdaar.government.bg/docs/eBulgaria2007.pdf

Strengths	Weaknesses
Provided access to the Internet for all administrations Adopted major part of the legislative basis for e-governance	Limited effect of the existing mechanisms for motivation and incentives for career development of the employees Lack of interoperability between the administrative information systems and underdeveloped e-documents flow
Opportunities	**Threats**
Availability of various possibilities for improvement of the internal processes in the administration with the help of ICT Availability of good Bulgarian experience in the field of administrative service delivery and improvement of the organisation of work at various administrative levels which can be disseminated Availability of good European management practices which can be adapted and integrated into the Bulgarian conditions Established cooperation with other institutions and NGOs and availability of experience for the implementation of an integrated approach for counteraction of corruption Interest from the business sector for involvement in good policy-making and partnership in their implementation	Incompleteness of the anticorruption policy due to the slow reform of the judicial system and the slow change in the public perception of the problem Lack of confidence among the municipal administrations and still weak desire for partnership among them Development of a tendency towards increase of the functions and structure of the administration with the introduction of new legislation Inability of the administration to offer competitive opportunities for career development in comparison with those in the private sector Slowing down of the economic growth Lack of confidence from the business sector and the civil society in the speed and effectiveness of the administrative reform implementation

The SWOT analysis provides an excellent opportunity to relate analysis to strategy for administrative reform in Bulgaria. It also describes relevant Bulgarian legislation, key strategic documents on administrative reform, on transparency of institutional working processes and on combating corruption, on implementing the "one-stop-shop" principle of service delivery and e-Government, on HR management and training, as well as documents on the current status of implementation of various strategies.

Recommendations

1. The use of different **forms of public-private partnerships**[127] **gives (PPP)** the possibility to modernise the administration through an optimal use of public resources. The cooperation 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

[127] See Annex 5.

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 use of different PPP forms aims at improving administrative service delivery, at enhancing transparency of public funds management as well as at decreasing spendings 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 sectoral 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.

2. Improving the effectiveness of human resources management is an important part of the successful implementation of the administrative reform in Bulgaria. The management of human resources is a continuous process specifically targeted towards the planning, recruitment and selection of the most qualified staff, their training, motivation and development, in order to ensure the effective implementation of the organisation's goals.

One of the key goals of state policy is to achieve effectiveness in the **management of human resources to ensure that the administrative reform will continue.**[128]

[128] Strategy for the modernisation of the state administration – from accession towards integration, 2003-2006, p. 3, http://www.mdaar.government.bg/docs/strategia_modern.pdf

In spite of the changes and the achieved improvements, targeted actions are needed, as well as financial resources and knowledge to implement the experience of the European and international human resources management systems within the state administration.

The human resources management units play a key role in carrying out the reform of the state administration. Further improvement of their capacity is needed for the efficient implementation of their functions, and for turning them into a strategic partner in the management of the administration.

Ensuring fair and transparent career development procedures, implementing the competition principle and performance evaluation, increasing professionalism and effectiveness in the work of the senior civil servants are key elements in achieving good management of human potential within the administration.

The introduction and maintaining of a Single human resources management system will be an important prerequisite for improving the process of human resources management. For the effective use of the system, the data contained need to be periodically updated in view of ongoing legislative changes concerning the human resources management.

The Single information system will ensure that common forms and methods for collection of information are used and will give the possibility to prepare quantitative and qualitative analyses of human resources development in the state administration.

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.

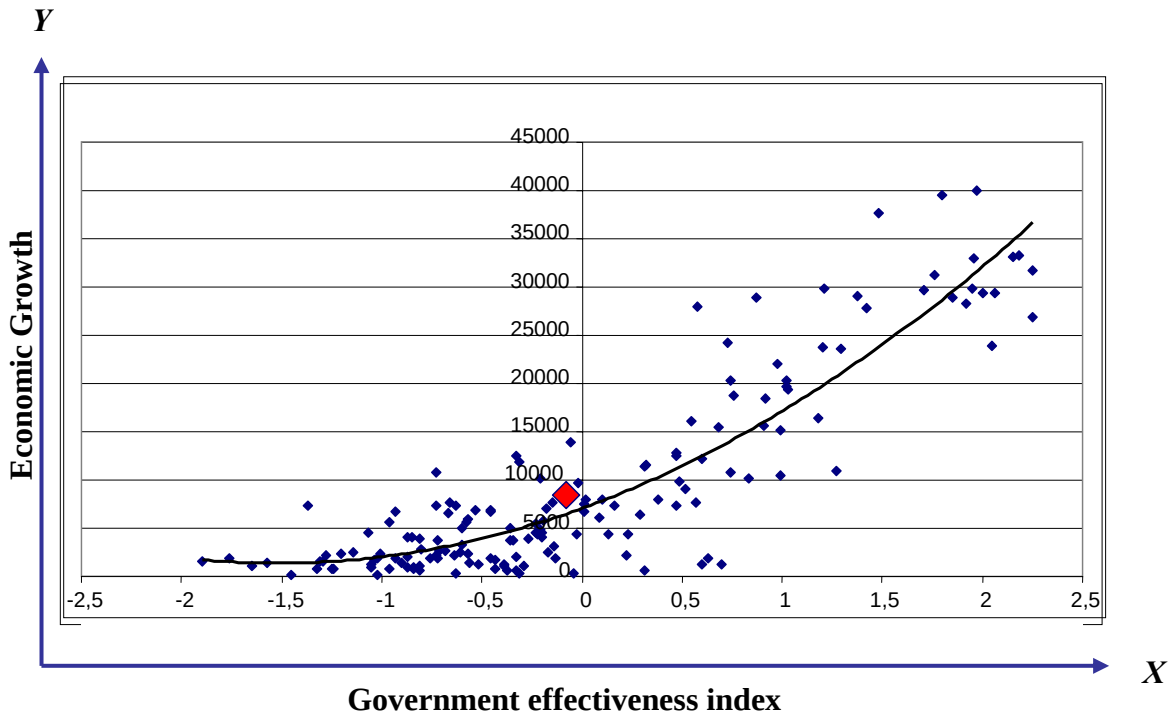
There needs to be good coordination to ensure the delivery of various trainings. Apart from the traditional training formats, new methods need to be used to allow the employees to perform their daily obligations.

3. A key measure for improving the quality of administrative service delivery is the introduction of quality management systems at all administrative levels. Their main function is to guarantee the customers a constantly improving quality of products/services, regardless of the quantity and the delivery deadlines. **A Common Assessment Framework (CAF)** was developed in 2000**,** based on the model of the European Foundation for Quality Management

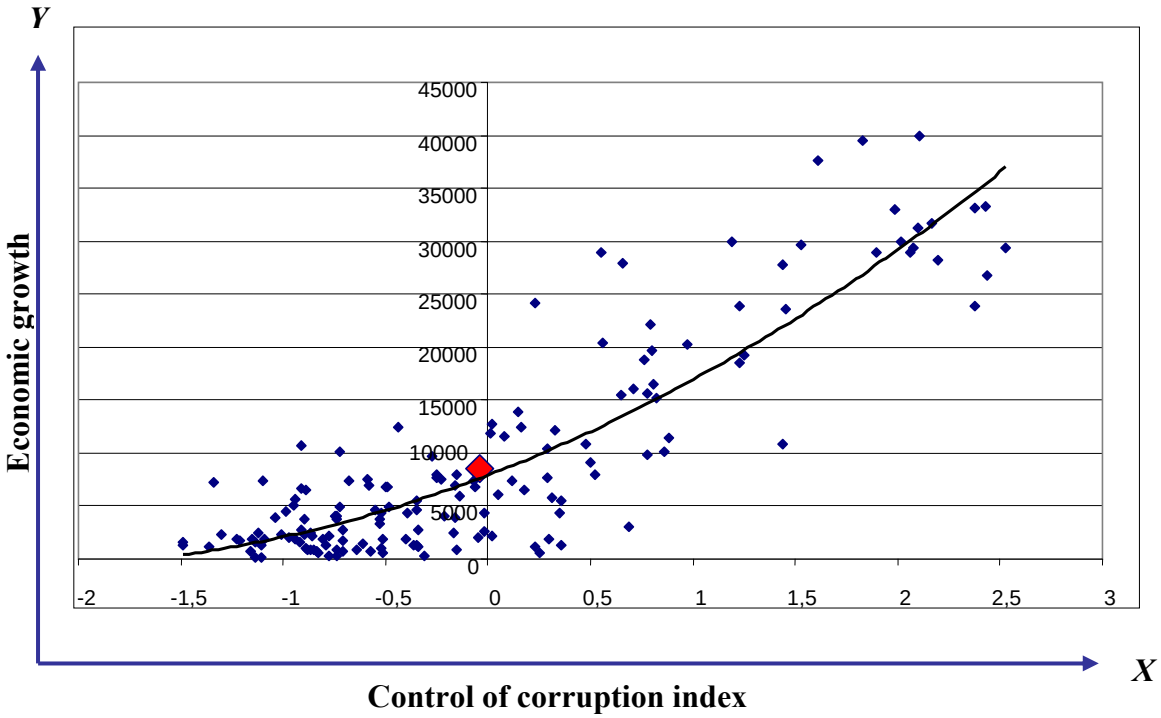
(EFQM).[129] It was specially designated for the public sector organisations. The introduction of CAF is free for the administrations. Presently, there are three administrations in Bulgaria which are at the initial stage of introduction of CAF.

The analysis shows that still a very small part of the administrative structures make use of the opportunities given by the quality management systems. Bulgaria's EU membership requires the implementation of similar European standards in all administrations delivering services. For this purpose it will be necessary to further promote the opportunities provided by the implementation of quality management systems. The establishment of a coordination mechanism for the quality management policy in Bulgaria is an important precondition in order to adapt these systems to the Bulgarian conditions and some guidelines need to be elaborated to help the administrations in their implementation.

4. The chart below demonstrates the strong correlation between two of the four indicators – index of government effectiveness and control of corruption (measured on the *x*-axis), and economic development (GDP per capita at the respective Purchasing Power Parities on the *y*-axis). The other two indicators (quality of regulatory regimes and rule of law) show the same interdependence.



[129] CAF was developed jointly by the European Institute of Public Administration and the European Network of Public Administrations.



Source: OPAC ex-ante team calculations.

Figure 1. Correlation between the indicators for government effectiveness and control of corruption, and GDP per capita

The results indicated two correlations:

- **First, a strong correlation was found between each of the four key "governance indicators" for state administration (quality of regulatory regimes, government effectiveness, application of the rule of law, and control of corruption) and a country's economic development.**
- **Second, Bulgaria is close to a "turning point", whereby even the smallest improvement of quality of public governance and better control of corruption could lead to large-scale results with respect to the increase of GDP per capita, labor productivity, domestic and foreign investment, and employment.**

Enhanced government effectiveness and improved control of corruption will significantly contribute to the increase of GDP per capita and the subsequent increase of employment, salaries and general societal welfare.

Different studies on the relationship between the indicators and economic growth reveal that the country's productivity (GDP) relates closely to competitiveness and investment. Strong governance, effective rule of law, and a favourable business environment create opportunities for capital investment, enterprise and job creation, competition, investment in research and innovation, etc. On the other hand, weak governments, ineffective implementation of legislation, and corruption create uncertainty and risk, which affect investment decisions. This complicates and raises the cost of starting businesses, of import and export, of labour force procurement, etc.

Conclusions

Government capacity is being tested like never before. Decision makers are being confronted by a combination of policy challenges of unprecedented size and complexity – from unemployment to climate change, ageing populations, migration and other long-term concerns. Citizens are turning to governments, seeking immediate solutions to complex problems and demanding high-quality public services to meet their changing circumstances and needs.

Good governance in Bulgaria is critical to long-term economic, social and environmental development. However, evaluating government activities and performance is challenging due to the limited availability of comparative data. Best practices are rarely definable and are often based on subjective assessments.

The reform of the public administration in Bulgaria aims to creat 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 extend depends on the professionalism, the wish and responsibility of the staff to develop and improvetheir 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 Reforms in public administration focus on the application of contemporary models and techniques for governing that 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.

The attainment of comparative results of the administration activity presupposes building up a transparent and reliable system for assessment of the administrative capacity. This will lead to raising the confidence towards its activity. An instrument for building up a strong, effective and modern administration is the developed Operative programme "Administrative capacity" which aim to building up and strengthening the administrative capacity at central, regional and local level for applying the principles of good governance as a major condition for an effective and efficient usage of the Structural Funds and the Cohesion Fund of the European Union

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Chapter 5
Research Report 1.4

GENERAL FRAMEWORK OF ADMINISTRATIVE CONVERGENCE PROVIDED BY CROATIAN PUBLIC ADMINISTRATIVE REFORMS

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Introduction

One of the main goals of Croatian foreign policy is to become a full member of the European Union. Croatia has submitted a request for full membership on 21st of February 2003, and received the status of official candidate for EU membership on 18th of June 2004. Negotiations for accession have been officially open on 3rd of October 2005. Negotiations focus on the conditions under which the candidate countries will adopt, implement and enforce the acquis communautaire.

Very important area of negotiation and requirements of the Republic of Croatia is the reform of public administration. The main criticism of the state administration states its bulking and lethargy. Public administration reform runs slowly. The existing legal administrative system in Croatia is a complex and complicated, and it needs to be simplified. Large discretionary range leads to inefficiency and legal uncertainty, and provides conducive circumstances for corruption. Administrative Court, for example, can not perform the current scope of work related to revision of administrative decisions. Also one of the criticisms refers to underdevelopment of local and regional self-government, and weak decentralization. The **State Administration** is responsible for the immediate implementation of the Act, making regulations for their implementation, performance management and inspection and other administrative and professional activities. State administration tasks are performed by government bodies of state administration and certain affairs of state administration may be entrusted to bodies and local and regional government or other legal entities pursuant to a public authority.

Field of activity of public administration, and thus of the administration of convergence is very broad and complex. At this stage of the research, the project consists of several key areas. 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. In a separate section of

the report the main directions and achievements of the implementation of a comprehensive public administration reform that is underway is summarized. By this reform a very high degree of convergence and administrative integration of Croatia into EAS will be achieved.

More detailed surveys were conducted in the area of the implementation of normative and institutional prerequisites for the reform of public administration and especially in part of formulation of the economic financial control (audit and control) of activities of public administration entities.

These researches are represented in more detail in the report with respect to the narrow field of study in the Faculty of Economics in Rijeka as a partner in this project.

In other phases of the research project we will comprehensively examine aspects of convergence in the field of accounting and finance, socio-economic development of civil society and the full involvement of the Croatia into the EAS.

I. Croatian public sector as the institutional area of public administration

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.

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. However, for the needs of the researching, analyzing and defining public sector management we will stay within the framework of general government institutional units.

1. Institutional scope of the Croatian public sector

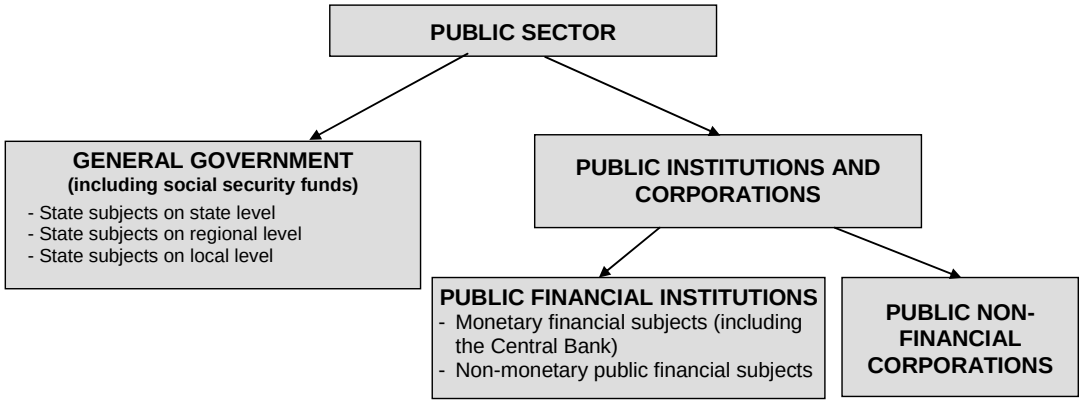
International and Croatian legislative does not define public sector uniformly. Therefore, the institutional scope and structure of the Croatian public sector needs to be described in more detail according to the international and Croatian legal resources.

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)[130] and European System of National Accounts (ESA 1995).

[130] 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.

In this context, the public sector includes:

- General Government
- Public non-financial and financial corporations and quasi-corporations.[131]



Scheme 1. Public sector according to the GFS[132]

Therefore, the aggregation of all public corporations, quasi-corporations and general government units are known as the public sector.

The **general government** consists of:[133]

- 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**.

Other segments of the public sector (public non-financial and financial corporations and quasi-corporations) consist of:[134]

- 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 depositary corporations),

- non-monetary public companies (non-financial public corporations and non-monetary financial public corporations),

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[131] 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.

[132] Public sector according to the *GFS Manual 2001,* IMF, p. 22.

[133] 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.

[134] Cf. *op. cit.* GFS 2001, Chapter 2, Article 54.

- monetary public corporations except the central bank (all residential depositary corporations except the central bank under general government unit control),

- the central bank.

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

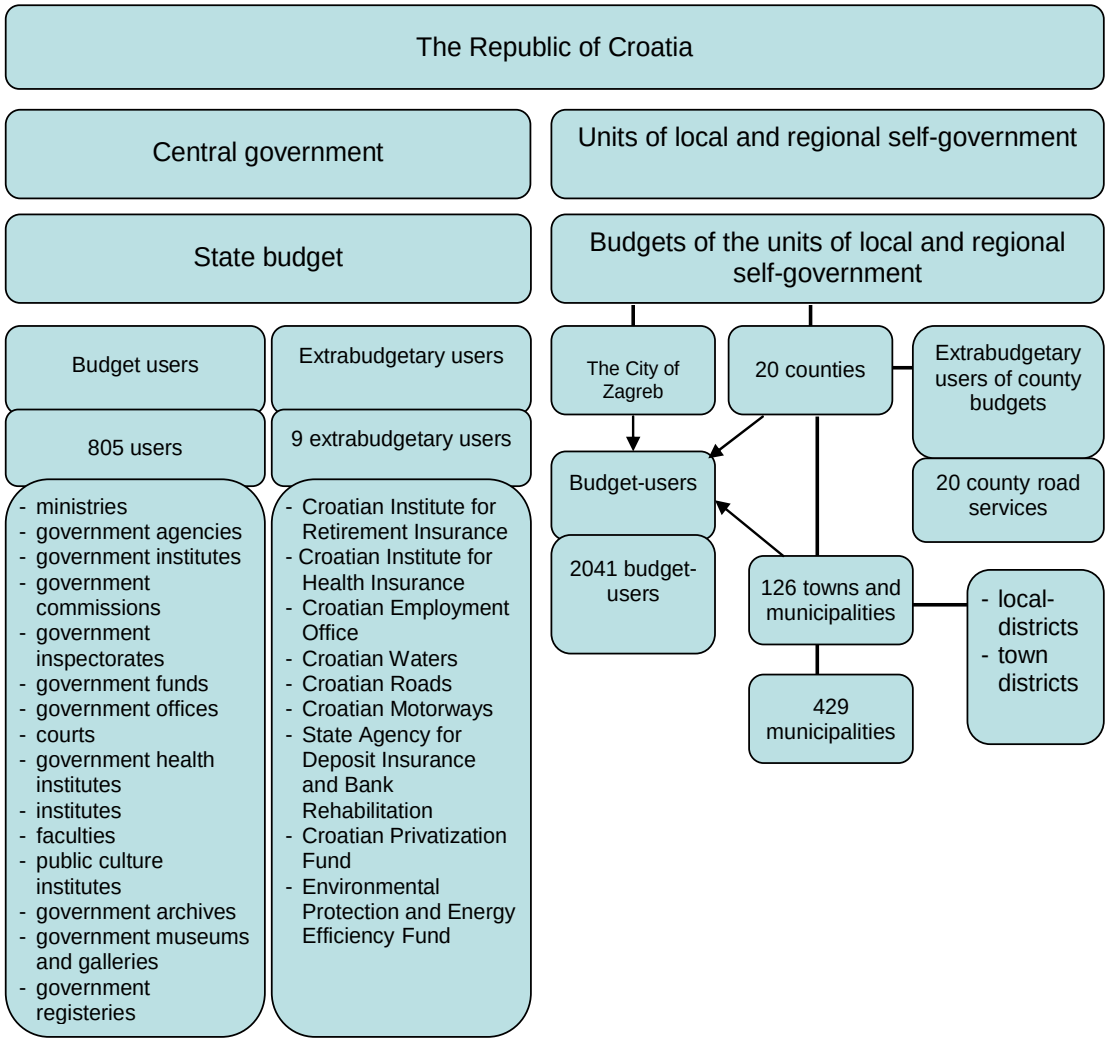
- the general government

- 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.

The general state in the Republic of Croatia described above is illustrated by the following scheme.



Scheme 2. Institutional scope of the general government

The subjects of the general government shown above together with all economic subjects owned by the state and the units of the local and regional self-government form the Croatian public sector.

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2. State administration system

The most important laws that define the system and structure of state administration are the Law on the System of Government Administration[135], the Law on the Croatian Government[136], the Law on the Organization of Ministries and State Administration Bodies[137], the Regulation on Principles for the internal organization of state administration bodies[138] and the Budget Law[139] 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.

Government bodies are defined by the Law on the System of Government Administration, which are:

1. Central government bodies:
   - Ministries,
   - State Administration (central government offices of the Government of Republic of Croatia)
   - Public administrative organizations,
2. First-instance bodies of state administration in counties:
   - Public administrative organizations and
   - Government offices in units of regional self-government (counties).

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135 Official Gazette, 190/03., 199/03., 79/07.
136 Official Gazette, 101/98, 15/00. i 117/01., 199/03., 30/04., 77/09.
137 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.
138 Official Gazette, 43/01., 08/04., 131/06., 91/07.
139 Official Gazette, 87/08.

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 authorizes 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 that 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, Veterans' Affairs and Intergenerational Solidarity
13. Ministry of Regional Development, Forestry and Water Management
14. Ministry of Tourism
15. Ministry of Public Administration

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.

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.

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

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. 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 cosignature 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 are 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.

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

The activities of the state administration in the first instance are carry out by the state administration offices, unless otherwise is provided by the special law. For performing the specific tasks of state administration authority of central government bodies' regional units may be established in the county, city and municipality. For performing specific tasks of state administration authority of the state administration branch offices in local or regional government can be established in city or municipality.

The activities related to state administration in the agencies of state administration are carried out by civil servants that were employed in the civil service by the public competition, unless different procedure was provided by the law. Activities of technical support in bodies of the state administration are performed by employees. Ministers, state secretaries and assistants, directors of state administrative organizations, and state secretaries and assistants are officials of the Republic of Croatia.

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.

Funding for the activities of state administration bodies is provided in the state budget. Resources for conducting state administration entrusted to bodies of local and regional (regional) government or legal entities vested with public authority are provided in accordance with a special law that entrusted these authorities.

The functions of state administration bodies are:

1. immediate implementation of the law – the state administration bodies, bodies of local and regional governments and legal persons with public authorities, directly applying the laws and other regulations,

2. in administrative matters, keep and maintain prescribed registers, issue certificates and other receipts and perform other administrative duties and professional activities,

3. adoption of implementing regulations, i.e. the preparation of laws and subordinate legislation – ministers, state secretaries and directors of state administrative organizations make regulations, orders and instructions for the implementation of laws and other regulations

(published in the Official Gazette (regulations – elaborates provisions of the law in more detail for purposes of their application, the directive – commands or forbids certain conduct, instruction - prescribe the way of state administration or local and regional governments work procedures.

4. implementation of administrative control - government bodies monitor the implementation of laws and other regulations and the legality of procedures and activities of state administration bodies, bodies of local and regional (regional) governments and legal persons vested with public powers entrusted in matters of state administration. Government bodies particularly monitored are:

- legality of work procedures and treatment,
- resolving administrative disputes,
- efficiency, economy and purpose of work in performing the duties of administration,
- purpose of the internal structure and the ability of officials and employees to conduct working tasks,
- relationship between officials and employees toward citizens and other parties.

5. inspection – in line with the specific laws a direct insight into the general and individual acts, conditions and operation of controlled companies and individuals is being implemented and measures provided by the law and other regulations are taken in order to comply determined state and operations with the law and other regulations. The inspection is carried out by inspectors and other state officials empowered to implement control, where that is determined by a separate law (inspector has the right to order the removal of certain deficiencies, submit a report and take other measures).

6. other administrative and professional jobs: monitoring within the scope of its activities, drafting proposals and regulations, and other professional tasks (interpretation of certain provisions of the regulations in its scope, responding to questions from members of Parliament...).

Activities of the state administrative organizations are managed by the Director with the position of assistant minister and responsible to the Minister and the Government.

These are the following organizations:

1. State Geodetic Directorate
2. State Bureau of Metrology,
3. State Intellectual Property Office,
4. Meteorological and Hydrological Service,
5. Central Bureau of Statistics,
6. State Inspector’s Office,
7. State Institute of Radiation Protection,
8. National Protection and Rescue Directorate,
9. State Office for Nuclear Safety.

Activities of the state administrative organizations are managed by the director who is appointed and dismissed by the Government of Croatia on the proposal of the Prime Minister and with the opinion of the competent minister. Director is responsible for the implementation of laws and other regulations, monitors the legality and timeliness of the execution of tasks, assigns tasks, is responsible for professional education and training of employees, and takes measures to establish responsibility for breach of official duties. Director may have one or more assistants who are appointed and dismissed by the Government of the Republic of Croatia on the proposal of the director, which is responsible to director and the minister. If assistant minister is not appointed for each administrative organization, then the State Secretary can manage it.

State administrative organizations are formed for conducting activities of state administration in one or more administrative regions. State government organizations are in principle established as a state administrations, institutes and directorates.

State administrative organizations perform tasks:

1. Examine and explore specific questions which require application of special modes of activities, which is necessarily to perform within the state administration,
2. Keep prescribed records,
3. Deal with administrative matters, when that is expressly authorized by the law,
4. Carry out administrative and other inspection,
5. Prepare draft laws and proposals of other regulations,
6. Preparing technical basis for decision-making in public bodies,
7. Achieve cooperation with government bodies, local and regional (regional) governments and other entities,
8. Achieve international cooperation,
9. Collect, arrange, and analyze the information of interest to the activity for which they are organized,
10. Perform other tasks stipulated by law and other regulations.

Office of the State administration is organized to conduct state administration operations in more administrative areas in the unit of regional government, and performs the following tasks:

1. directly enforce laws and other regulations;
2. resolves administrative matters in the 1st degree;
3. conducts administrative and other inspection;
4. monitor the situation in their jurisdiction.

Head of the state administration office manages the work of state administration offices in the regional government and is the leader of that office. He is appointed and dismissed by the Government based on the proposal of Secretary of State responsible for general administration activities. Head of the state administration office is responsible for the implementation of laws and other regulations, monitors the legality and timeliness of

performing tasks assigned tasks, exercises control over the affairs of state administration offices in the municipalities and cities, ensuring co-operation of the state administration in the regional units of government with bodies of local and regional governments.

State administration office in the unit of regional self-government performs administrative and other expert tasks in the administrative areas for which is established. This refers in particular to:

1. Directly enforce laws and other regulations and ensure their implementation,

2. Resolves administrative disputes in the first instance, in the second instance, if it is not stated by a special law that this is within the competence of central government bodies or legal persons vested with public authority, and entrusted to bodies of local or regional (regional) governments,

3. Conducts administrative and other inspection,

4. Monitor the situation in their jurisdiction, and proposes measures to the central bodies of state administration to improve conditions in some administrative areas,

5. Keep registers defined by law and other regulations,

6. Issue certificates and receipts, and other tasks that were explicitly defined by law to be in scope of their competence.

The internal organization of state administration bodies are regulated by regulation of the Government of Croatia. That regulation prescribes internal organization, the names of internal organizational units and their scope of work, management of units, the approximate number of civil servants and employees, the planning tasks, working hours, etc. On the basis of these provisions the regulation on the internal order is adopted by the Minister for the Ministry, director for the state administration the organizations, and head of government units for the state administration office in local and regional self-government units.

Activities of the state administration offices in units of regional self-governments are managed by head of the office. Head of the state administration offices is appointed and dismissed by the Government on the proposal of the State Secretary responsible for general administrative affairs on the basis of previously conducted public tender.

The head of state administration office is responsible to the Government and the State Secretary in charge of general administration.

Activities in the area of public administration entrusted to the bodies of local and regional governments and legal persons with public power are:

1. to deal with administrative matters in the first and second degree when these activities are by the law explicitly placed to be in their jurisdiction;

2. keep registers defined by the law and other regulations and issued prescribed certificates and other receipts;

3. perform other tasks of state administration, which are explicitly placed by the law to be in their jurisdiction.

Ministries and state administrative organizations must cooperate and provide each other technical assistance in its scope, adjust work schedules, establish a joint technical commissions and working groups, and to provide professional help to the state administration

offices in the regional units of self-government (also carry out administrative supervision of them) and co-operation.

Ministries, central government offices and state administrative organizations:

- are obliged to cooperate and to provide each other technical assistance in their jurisdiction, to provide information about the data on which the official records are kept, adjust work schedules, establish a joint technical commissions and working groups for issues of common interest, organize a joint expert consultation, and encourage and formulate other forms of cooperation.

- are obliged to provide expert assistance to the state administration offices in the regional government units, and particularly professionally process issues arising in connection with the execution of the laws and regulations, provide expert opinions and explanations and to maintain professional consultation on manner of law enforcement as well as other general issues of importance for the proper operation and improvement of working methods and efficiency in state administration offices in the regional government units.

- carry out administrative supervision over the work of state administration offices in the regional government units and take appropriate measures; especially to start the process for determining the responsibility of civil servants and directly perform tasks from the jurisdiction of the state administration when is evaluated that there is no way to implement law or regulation in other way, and government office in a regional government has not acted in accordance with the instructions previously given, and in time that was given appropriately.

Reports on performing the duties of state administration may be given by ministers, directors of state administrative organizations and heads of state administration offices in the regional government units and authorized state officials. When government bodies hold consultations or other forms of professional treatment of issues within its competence, it is mandatory to inform the public on that through the press and other forms of public information and to allow the presence of representatives of the media.

3. 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 Croatia[140], 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 Administration[141], i.e. the Act on Local and Regional Self-Government[142]. 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).

[140] Official Gazette, Nos. 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.
[141] Official Gazette, Nos. 90/92, 94/93, 117/93, 5/97, 17/99, 128/99, 51/00 and 105/00.
[142] Official Gazette, Nos. 90/92, 94/93, 117/93, 5/97, 17/99, 128/99, 51/00 and 105/00.

The right of citizens to local and regional self-government is guaranteed by the Constitution of the Republic of Croatia[143]. 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: 132).

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 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.

[143] Official Gazette, No. 56/90.

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 Act[144] as well as general acts (lex generali) that regulate the system of local self-government in the Republic of Croatia. [145]

II. Croatian public administration reform

Public administration is one of the strategically important areas of reform and of ongoing efforts of the Croatian Government. Modernization of the 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 assumption 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 to focus their services on the citizens, the public administration can achieve its purpose, which is serving the citizens.

The efficiency and the activity of public sector are increasingly ever more important, and especially at the time of Croatian accession to the European Union. Most of the responsibility for the absorbing capacity and the implementation of the acquis communitaire, as well as the efficient representation of Croatian interests in the European Union lies 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.

144 Official Gazette No. 87/08.

145 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).

The Public Administration Reform Strategy for the period between 2008 and 2011 was adopted by the Croatian Government in March 2008. 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.

A modern public administration can be traced by a number of goals i.e. its specific indicators. The main objectives of the public administration reform highlighted by the Strategy are:

- The increase in state 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 of the ethical level of the public administration 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 implementation of reforms.

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. Some of these results are: the establishment of a complete system of protection of personal data, provision of access to public sector information, efficient polls regulation, organizational and other changes in state administration. Other achievements comprise the strengthening of the ethical level of the state administration, establishment of a legal framework for depoliticizing of the civil service, the provision of an effective system of human resource management and development within the public administration, education of the officials, reduction in regulations, and simplification of administrative procedures.

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 the reductions of public administration, the increase in its efficiency and cost savings, improvements of coordination and coherence in government works, the openness i.e. transparency of government to the citizens and the participation of citizens and civil society in the government.

2. The strengthening of program quality, of laws and other regulations, including strategic planning, program design, and evaluation of the effects of new regulations and implementing 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.

Since the reform of the state administration is a long and continuous process, during the year 2009 the reforms of state administration and the implementation of the Strategy of public administration reform were intensively continued.

1. Institutional framework

Within the structural adjustment of state administration the need to reduce the overall government, the increased efficiency, improved coordination and coherence in the work of government, the openness of the government to the citizens and the participation of citizens and civil society is emphasized.

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 government bodies responsible for the reform of state administration. The amendments to the Law on Organization and Scope of Central Government Bodies established the Ministry of Administration, which overtook the previous work of the Central State Administration Office, according to the recommendations of the project “Functional review and assistance in restructuring the state administration bodies and their auxiliary agency in the Republic of Croatia”.

Public administration reform strategy establishes the need to revise the organizational structure, management and functions of government bodies and related bodies (agencies) for the division of powers, to determine which functions and powers should be performed in the state administration, which can be rationally performed at other levels. Stated means the abolition of the functions for which the review found that the unnecessary, and the gradual

transfer of functions that are necessary but not characteristic of affairs of state administration, the non-government entities.

Based on the results of the functional analysis, it is necessary to identify and remove unnecessary function overlaps in the performance of certain between governmental authorities and to reduce the number of managerial levels and thereby reduce the organizational fragmentation.

The reviews of the organizational structures and functions have been carried out within the framework of a functional audit, which began on 1st December 2007. In December 2008 the project "Functional review and assistance in the restructuring of the state administration bodies and their auxiliary agencies in the Republic of Croatia" was completely implemented. 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.

The strategy of the structural adjustments of the state administration 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 regulation of public agencies in the Republic of Croatia and the creation of agencies. 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 its citizens, and to the participation of citizens and civil society in government actions, strikes the need for a further improvement in the transparency of public administration and more citizen participation. Openness of government to citizens should continue to be encouraged, both in terms of improvements and standardization in the approach to inform the public about administrative duties.

Access to information held by public authorities is important for every country, including Croatia. It is a dam against the abuse of power and corruption, and a challenge to create a more responsible administration, and it may contribute to the professionalization of the work and procedures of state employees, which ultimately results in increased confidence and better evaluation of public 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 Center 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 aim of the Information Access Right Law which Croatia adopted in 2003 ensures the right to access information to natural and legal persons, 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 2731 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.

2. Normative framework

The second fundamental area of the planned strategy includes the strengthening of the program quality, the laws and other regulations, including strategic planning, program design, evaluation of the effects of new regulations and implementing 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 fulfillment 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 Center 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 principle of citizen and other 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).

A Salaries in Local and Regional Government Bill was 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%.

3. The system of governmental employees

The new system of civil servants will provide a modern civil service. The design of the system puts the emphasis on measures of de-politicization and professionalization, system development and human resources management, it fights corruption and

strengthens the ethics of civil servants, it tries to regulate the remuneration of the public servants according to the 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 (Ministry Secretaries, Directors in the Ministry, the Deputy Secretary of Government, Head of Government, Deputy Secretary of State and central government offices and the Deputy Assistant Director of state administrative organizations).

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.

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 be stimulating and fair and should ensure consistency in remuneration in the entire state administration (in order to retain professional staff in the civil service).

Specifically, the salaries policy within the Croatian government is not unique. There is no instituted system of incentives based on performance. 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 civil service admission plan for 2009 has not been passed because of the economic situation and limited budget resources. 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 Servants Code of Ethics was passed and all governmental and judicial bodies appointed a Commissioner for ethics. Their task is to monitor the implementation of the Code of Ethics in state bodies. These officials give advice on ethical behavior, they receive complaints about the officials and about citizens on unethical and possibly corruptive treatment of civil servants, and they record and investigate complaints.

Attention is paid to the 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 Center 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 of the Civil Servants Law determined the penalty of compulsory termination of the civil service for civil servants sentenced with corruption and prescribed the protection of officials exposing 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 the representation of ethnic minorities in state administration, according to the data from August 2009 at the disposal to the Ministry of Public Administration, the state administration bodies employed a total of 2.137 persons belonging to some national minority. The Center 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.

4. Governmental employees education

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. In addition, it provides for the establishment of appropriate administrative systems of education. The Strategy 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.

Large administrative staff fluctuations show the best educated and experienced personnel to the private sector. Insufficient emphasis put on education in state administration, in professional training, and lifelong learning for civil servants, insufficient weight given to the principles of personal capability and efficiency given during the employment process, the insufficient advancement and remuneration possibilities of civil servants, damages the level of professionalism and quality of public administration.

Continuous training and education should become the obligation of each state or public official. It is necessary to act in at least two directions: with the universities to develop undergraduate and postgraduate specialist studies of public administration, and to create programs of continuing education and training of public administration, within the Center for Training of civil servants. In the long term the most important reforms are headed to establish a comprehensive system of administrative education. While special attention should be 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 of the Republic of Croatia 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 are 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 Center 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.

5. The simplification of the administrative work – e-administration

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.

In its preparation there were international and local experts in the field of administrative law involved. Special attention was paid to the reform of administrative proceedings, to the simplification, unification and transparency of administrative proceedings, and to the orientation of public administration to citizens, entrepreneurs and society as a whole.

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.

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[146], and giving insights into international experience in the reform of administrative proceedings.

[146] Related to judicial protection and adjudication it should be noted that at its meeting held on 12th September 2008. The Croatian Government adopted a strategic document and guidelines for drafting a new Law on Administrative Disputes. Both documents have been prepared under the CARDS 2004th Twinning Project

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 officer for administrative procedures. The Strategy envisages the introduction of a special professional examination for officers who lead administrative procedures, and also establishes the need to prescribe the legal profession as a condition for employment in the workplace responsible for dealing with administrative matters.

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.

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 to further intensify the activities in their direction. 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, satisfying the needs of citizens and improve 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 in accordance with the planned resources.

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.

6. Local government

In achieving the objectives of the reform, it is necessary to pay equal attention to local government and state administration. To create a business environment favorable for business and investment, a professional and efficient local government, and the development of local government units, acting in the best interests of citizens, has a special role.

In October 2007, the Croatian Parliament adopted a Law on elections for the mayor, which provides for direct elections of the holder of the executive power at the local and regional level, and introduces a new model significantly different from the former. The Law on Local and Regional government, which primarily regulates the relationship between the directly

Support for more efficient, more effective and more modern management and functioning of the Croatian administrative court. Strategic document represents three objectives of administrative adjudication reform. The first goal is to match the Law on Administrative Disputes with the acquis communautaire (the EU body of legislation, in particular with Article 6 of the European Convention for the Protection of Human Rights and Fundamental Freedoms, ECHR). Also, it is necessary to reduce the duration of the proceedings and reduce the current delay of the cases, as well as increase the efficiency of the judicial control of legality of individual acts. The solution can be seen in the reform of procedural law, and organizational reforms (two-stage administrative adjudication).

elected executive power holders - 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 a greater transparency in the election of the same.

In the May 2009 local elections the new electoral model was implemented for the first time. Voter turnout in the elections was higher than in the previous local elections and a new electoral model stopped the downward trend in the elections turnout.

In October 2009 it was begun with the preparations for drafting the platform within which an analysis of local and regional governments was to be performed, and established criteria for assessing their sustainability, 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 going 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 the development of rational, better, more transparent and effective local government to be responsible to citizens. 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 "The Strengthening of the Administrative Capacity" the National Strategy calls for the functional and fiscal decentralization and human resource development, which was presented at the final conference in May 2008. year. 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 training of public officials and civil servants 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. The law would also need to establish objectives and principles of regional development policies, planning documents, identification of areas with development difficulties, financing, institutional framework, and should provide for time adjustments. Definition of regional development policy and legislation is a priority for the deepening socio-economic differences and development opportunities in various parts of the country, and seek to ensure conditions for steady development of all parts of the country.

7. Evaluation of reform results

Public Administration Reform Strategy provides also for a strategic evaluation of the results of its measures. 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.

III. Audit as support of public sector reform

European Union is helping Candidate Countries in both, implementation of reforms necessary for fulfilment of above mentioned criteria and in taking over the acquis communuitaire, offering a wide rang of financial assistances. Countries' success depends, among others, on existence, reform and quality of **internal control** as a part of Public Internal Financial Control (PIFC) system, and **external audit systems**.

Internal audit and external audit are not covered by EU regulation as the Member States have always been free to make their own arrangements in the area of controlling national budgetary means (except regarding control of EU funds). Therefore PIFC and external audit were regarded as so-called "soft acquis". However, the European Council, the European Parliament, the European Court of Auditors and the European Commission have agreed that in this Chapter, the Candidate Countries have to reform their public internal control and

external audit systems in a way to follow and implement international standards and EU best practices.[147]

Therefore adjustment of the financial control systems to the European Union requirements and standards represents one of the priority politics in the public sector reform and in that sense preparation of administrative capacities for development and implementation of relevant politics and regulation in the Republic of Croatia. Aware of that, Croatia started with a process of development of PIFC and strengthening of external audit before it was declared to be an official candidate for membership in the EU, and today - during the negotiations process - is putting a lot of effort to bring that system fully in line with the EU rules and good practices.

1. Internal audit

1.1. Historical background

Following the EU requirements and recommendations for Candidate Countries, the Government of the Republic of Croatia passed the first Strategy on development of the PIFC System in 2004 as a normative framework for establishment of all activities and functions in the respected area, including internal audit function. Taking into account that the Strategy represents a document which is subject to changes and improvement, and having in mind the overall PIFC system development and previous experience, the Government of the Republic of Croatia passed in June 2005 a new Development Strategy of PIFC.[148]

In addition, in November 2007, the Croatian Government adopted an Independent Development Strategy of Public Internal Financial Control in the Republic of Croatia for local and regional self-government units. This document lays down the course of development of this system, and the obligations of the Central Harmonisation Unit of the Ministry of Finance as regards establishment of the system. The Strategy is completed by the Action Plan defining the new activities, their implementation deadlines and competent authorities.

A legal background for the internal audit set up was The Budget Act[149], which prescribed obligation of internal audit establishment for the budget users, as well as internal audit's competences. After that, a number of bylaws were adopted to regulate this area more in detail. Also an overall system of training for internal auditor sin the public sector was developed (and is in implementation). Coordination of setting up and development of the PIFC system is under responsibility of the Ministry of Finance, while implementation of coordination is under competence of the Department for harmonisation of Internal Audit and Financial Control as the Central Harmonisation Unit.

In March 2007 the Public Internal Financial Control Council has been established with a role to monitor development of the PIFC system and propose measures for improvement.

In December 2006 the Law on the Public Internal Control System in the Public Sector was passed[150], clearly defining a framework for establishment and development of the financial management and internal controls system and internal audit, activities required for the establishment of overall and efficient PIFC system, as well as persons responsible for

147 European Commission, Welcome to the world of PIFC, EU Publications Office, 2006.
148 www.mfin.hr
149 Official Gazzette 96/03.
150 Official Gazzette 141/06.

establishment and development, and performance of particular forms of internal controls systems. According to this Law, PIFC system in a public sector is consisted of two main elements: Financial Management and Control, and Internal Audit.

Each of the budget users is obliged to set up an internal audit in a manner described in the Law, and according to criteria defined by the special Rulebook passed by the Minister of Finance.

Internal audit can be performed by the persons with professional certificate obtained by the Minister of Finance, and are responsible directly to the Head of institution and Head of Internal Audit Unit.

Progress in establishment and development of PIFC system is monitored through preparation and adoption of relevant strategy based on the system analysis and action plan for future activities, preparation and adoption of relevant legal framework and its implementation.

1.2. Legal framework

In the process of harmonisation of internal control concepts, it is important to achieve a common understanding of definition of Internal Control and Internal Audit as well as of their objectives. It can be assured only by legislation. Today, Internal Control and Internal Audit are legally defined in all the countries, although in different ways, depending on their administrative culture and tradition. In some countries provision for internal control is purely internal financial control, while in others it includes a wider range of responsibilities, as well as playing an important role in the formulation of risk management policies.[151] Different definitions (even though in the field of Internal Audit not significant) implicate that models of Internal Control and Internal Audit are various.

In Croatia, the area of Internal Audit today is regulated by the Public Internal Financial Control Act[152] adopted in December 2006. The said Act defines in detail the framework for the establishment and development of internal audit and the system of financial management and control, as well as the methodology, standards, relationships and responsibilities within the internal financial control system.

Based on the provisions of the above mentioned Act, Croatia drafted and adopted all the relevant implementing legislation.

The Ordinance on internal audit of budget users[153] was adopted in March 2008. The Ordinance on internal audit of budget users stipulates the criteria for the establishment of internal audit units of budget users. Besides that, there was the Internal Audit Manual drafted (last version in November 2008). In January 2008, the Minister of Finance, with the prior approval of the Croatian Government, issued a Professional Code of Ethics for Internal Auditors[154], laying down the principles and rules to be adhered to by internal auditors in the performance of their duties.

[151] Definitions by countries could be found in: The PIFC Expert Group "Report on Internal Control Systems in Candidate Countries", Volume I, Annex 2; www.revizija.hr and www.oecd/sigma.org
[152] Official Gazzette 141/06.
[153] Official Gazzette 35/08.
[154] Official Gazzette 18/08.

A template of the Internal Auditors' Charter was drafted in January 2008, laying down the rights and obligations of internal auditors as well as officials and heads of the budget users, to be used by internal audit units in preparing their copies.

Undertaking of the activities in this area is stipulated by the Development Strategy of the Public Internal Financial Control in the public sector of the Republic of Croatia.

Moreover, the activities referred to in the Action Plan for the establishment and development of the Public Internal Financial Control in the Republic of Croatia by the end of 2008, which was adopted in April 2007, were carried out according to plan. The new Plan for further development of Public Internal Financial Control in 2009 was adopted in January 2009, with the aim of further development of the public internal financial control system.

The new Budget Act[155] was adopted in July 2008 which excluded the provisions on internal audit. Furthermore, the new Ordinance on budgetary control[156] stipulates that control shall be carried out only pursuant to petitions of citizens, requests submitted by central bodies of public administration, local and regional self-government units and other legal entities, and not, as it has been the practice until now, pursuant to the adopted control plans.[157]

1.3. Administrative framework

Ministry of Finance of the Republic of Croatia is responsible for development of the internal audit in the public sector in compliance with generally accepted international standards.

Since 2003 these tasks within the Ministry of Finance were performed by the Department for Internal Audit and Supervision, while fin April 2005 the Department for harmonisation of Internal Audit and Financial Control was established to take over the role of the Central Harmonisation Unit with a goal of establishing, coordinating and developing of overall financial control system in the Croatian public sector.

As to strengthen development and supervision of internal financial control and internal audit, Government of the Republic of Croatia in December 2005 appointed the Public Internal Financial Control Council. It is advisory body to the minister of finance which, among others, consists of the Chief State Treasurer, the National Authorising Officer, Auditor General and the Director of the Agency for the Audit of Implementation of EU Programmes.

Further on, the Professional training programme for acquiring the qualification of a Certified Public Internal Auditor and Instructions on skills assessment, and passing of the exam for acquiring the qualification of a Certified Public Internal Auditor, were issued by the Minister of Finance in March 2007. The Internal Auditors' Training Plan for the period 2008-2010 was adopted in January 2008 and is currently being implemented. In April 2008 the regional training centres for education were opened in Rijeka, Split and Osijek.

To date, functionally independent internal audit units have been established at all ministries and other state bodies, the City of Zagreb and in individual counties, county centres and large cities.

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155 Official Gazzette 87/08.

156 Official Gazzette 20/09.

157 In line with the Administrative Co-operation Agreement between the Ministry of Finance of the Republic of Croatia and the Directorate General for Budget of the European Commission, regular communication and exchange of opinions regarding the proposals of legal acts and subordinate legislation defining the establishment and development of the Public Internal Financial Control System in Croatia has been taking place.

2. External audit

2.1. Historical background

The development of the external auditing in Croatia begins in 1935 when the State Audit Office in Zagreb was founded. However, the Office was already abolished in 1939. After World War 2, auditing is being organized in imitation of East European countries; i.e. under the supervision of the state. Since 1950, after the introduction of the self-governing, auditing as a branch disappears till 1990, when new changes are introduced in Croatian economic practice, and with the appearance of market and private initiative - auditing gets its appropriate place.

Namely, after the founding of the independent state all the bodies of the legislative, executive and judicial government were founded, in accordance with the Constitution of the Republic of Croatia and democratic practise of the developed countries, as well as being reorganized and adjusted to the multiparty parliamentary system and market economy.

In the area of public revenues and expenditures the appropriate changes took place in the organization, competences and the work of the Ministry of Finance and its independent tax and customs services, during which the already existing legislative framework, organization and expert staff could have been used.

In other parts of the control of public incomes and expenditures, establishing, organization and manner of work of the corresponding state bodies and services significant, and almost root changes were necessary.

During 1993, together with the Tax Service, Financial Police was also founded and it took over the job of controlling businesses of all the governmental and other subjects in the terms of establishing and collecting taxes and other public spending, by which the terms to take over those responsibilities form the Service of bookkeeping, and its abolishment, were created.

In 1993, during the legislation on money transfers in the state and other regulations, normatively arranged businesses of money transfers were also taken over, together with the establishment of corresponding services.

In the inherited organizational system and normative arrangement, there were some elements of audit, but with different organization, authorizations and ways of performing business. So in 1993, by enacting the law on state audit, for the first time in Croatia's modern history a state body for the control of public revenues and expenditures was harmonised with the needs of one sovereign state.

At the time the State Audit Act was being passed, the point of departure was in two factors that determined the role, mandate and organisation of the Office. The first factor was the organisation of power in the state, founded on literal and consistent application of the tripartite division of power and the definition of the Office as an independent body, and the second circumstance was the process of the Republic of Croatia's joining the international community, within the context of which the role of the supreme audit institution was defined together with the way in which it worked. This was carried out via joining INTOSAI 1994, the international organisation of all supreme audit institutions in the world, and EUROSAI 1996, European branch of international organisation of the supreme audit institutions.

In this way, as well as through direct contacts and expert assistance, the unpropitious circumstances that in Croatia there had been no such responsible body, nor the appropriate experts nor the experience for the job, were overcome. Taking over this experience and these

basic principles quite consistently, the Office was founded as an independent body, strictly separated from executive government and answerable only to the Croatian Parliament, this responsibility being the while precisely defined, leaving the Office a high degree of independence in its work. Such a position is in compliance with a practice in majority of other, most developed democratic states.

2.2. Legal Framework

As there are no "minimum conditions" in the area of state auditing, compliance with the Lima Declaration of Guidelines on Auditing Precepts, the INTOSAI Auditing Standards, and the European Implementing Guidelines for the INTOSAI Auditing Standards could prove to be important for EU accession. These documents promulgate international guidelines which are intended to help introduce generally accepted auditing standards.

They also state universally adopted positions on best solutions and practices, which in turn help to put in practice the principles of accountability and responsibility of governments, together with overall administrative system for appropriate and efficient use of public funds. These three documents set the standards for improving the quality of work of audit institutions, enabling better evaluation of this work and adaptation to new features, while remaining sufficiently general to be used in different SAIs.

In this regard, the SAO built its operations and audit procedures based on the basis of the State Audit Act (adopted in July 1993) [158], the above mentioned documents and Prague Declaration[159].

Alongside the State Audit Act, audit issues are regulated by documents such as Statute and Rulebook on Internal Order.

Mandate of the SAO covers the audit of public incomes and expenditures, the audit of financial statements and financial transactions of government units and local and regional self-government units[160], legal entities being partly or wholly financed from the budget, public enterprises, companies and other legal entities owned in major part by Republic of Croatia or local and regional self-government units,–use of EU funds and funds of international organizations or institutions for financing of public needs, as well as the audit of the procedures of transformation and privatisation in legal entities.[161]

Audit scope covers financial as well as regularity and performance audits.

In addition to a detailed and express list of competences, the State Audit Act contains provisions regarding the organisation and management of the Office, audit and reporting methodology, and certification requirements for state auditors.

In accordance with the State Audit Act, INTOSAI Auditing Standards were translated to Croatian and published in Official Gazette. This made them an integrated part of the legal system of the Republic of Croatia.

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[158] Official Gazzette 70/93, 48/95, 105/99, 36/01, 44/01 and 177/04.

[159] Recommendations concerning the Functioning of Supreme Audit Institutions in the Context of European Integration (BIULETYN OF THE NAJWYZSZA IZBA KONTROLI, SPECIAL ISSUE, GRUDZIEN 1999, ROK IV NR 2 (10)).

[160] Because of clarification, the main characteristics of the budget system of the Republic of Croatia are given in the Annex 1.

[161] By mid-2001, mandate of the Office was broadened by entrusting transformation and privatisation audit to the State Audit Office.

The membership in the International Organisation of Supreme Audit Institutions and the publication of auditing standards achieved several goals at the same time. By accepting and incorporating into its own legal framework this international and supranational regulation, the Republic of Croatia demonstrated its readiness to integrate into the international community, accept the common principles and harmonization of the Croatian administrative and legal system with the provisions of international law. Already at the time of drafting the State Audit Act, particular effort was made to harmonise its legal solutions with auditing standards and its basic principles, general standards, operating standards and reporting standards, in order to achieve the basic objectives and duties of government auditing - the regulatory audit and the performance audit, by content and scope representing the legal compliance audit in the broadest sense of the word, as well as the audit of economy, efficiency and effectiveness.

The Code of Professional Ethics for State Auditors in Republic of Croatia was based on the State Audit Act and of the Statute of State Audit Office, and established on principles and rules of INTOSAI Code of Ethics for Auditors in Public Sector.

According to these principles, during the auditing, state auditors have to obey the principles of responsibility, public interest, integrity, independence, objectivity, unbiassedness, and competence. State auditors' conduct has to be unquestionable, because every unprofessional and inappropriate behavior brings in question both their and the Office's reputation. In addition to above mentioned documents, the State Audit Office developed its Business model - a document used as a basis for the identification of business processes of the Office and its operational units. The assumption for the construction of the Business model is contained in the fact that the internal organisation of operational units must be a result of business operations and processes related to that operational unit. Tasks and activities to be undertaken for the performance of operations and processes define the flow of information and technology needed.

2.3. Administrative framework

In accordance with its legal mandate, the Office is organised as a single institution with a Head Office in Zagreb and 20 regional offices in county seats set up in order to achieve higher efficiency and economy of operations.[162]

The Office is managed by Auditor General assisted by a deputy and assistants who support him/her in managing the Office and coordinate individual types of audit and other operations with heads of departments and heads of regional offices.

Audit is performed by certified state auditors, according to methods and procedures in compliance with the INTOSAI Auditing Standards. During the audit, the State Audit Office can engage an expert for dealing with specific problems involved in an audit procedure.

The SAO has recognized a direct link between the success rate of the state audit institution and its human resource development. SAO management is aware that is not only necessary to employ, but also to develop and keep competent and highly qualified audit staff. In addition to professional qualifications, it is therefore necessary to pay attention to an above-average understanding of business environment, foreign language skills and additional skills which all might be useful for auditors and generally for the SAO.

[162] Despite such a broad territorial coverage, the Office is organised as a body with a uniform program of activities, which guarantees uniform implementation of work methodology.

A particular attention is given to in-job theoretical and practical training, as well as professional development of all employees. Training is provided within the SAO as well as externally, while staff development is encouraged by funding and organizational management.

In October 2004 Auditor General set up the Internal Audit Department, as an autonomous organisational unit responsible directly to the Auditor General.

Also, the Council of Experts was formed as the Auditor General's advisory body. It consists of the Auditor General, Deputy Auditor General and Assistants Auditor General, as well as six external members - experts in the fields of economics, law, auditing and finances, appointed by the Auditor General. The Council of Experts discusses and provides opinions to the Auditor General on development program of the Office, improvements in the work, development of procedures in auditing standards application, specialized issues from the field of auditing, professional training and education of the Office employees, and other issues relevant for the work and development of the Office and auditing.

2.4. Conclusion

Membership of the European Union brings into force the legal framework that makes up the *acquis communuitaire* , which entails major changes in a number of areas.

The accession partnership which includes the commitments undertaken by each Candidate Country, cover a wide rang of activities. In the context of opening of accession negotiations, the EU's message is that incorporating the *acquis* will not be enough, and that countries need to develop the public services required to implement the Community rules with the same guarantee of effectiveness as in the Member States.

Establishment of stable system for management and control of national as well as EU funds, legally harmonised with the European Union's, is one of the basic requirements which Candidate Countries are obliged to fulfil in the process of preparation for the EU membership.

Because of its' complexity, that system is exposed to constant changes and improvements. Existing principles and standards are constantly under development, what continuously asks for changes in legislation and working practice. Such framework in the process of constant evolution at the same time seeks for continued adjustment of national administrative structures to the European progress, what also for the Candidate Countries represent not only a big challenge, but sometimes also a double effort.

Experience of the "new Member States" shows that successful adoption of the EU standards and rules - on which also depend efficiency of using of the funds - mostly depends on the each country's individual capability to implement institutional and human resource preparation, and if possible, through strategic and expert consideration of economic development.

Regarding the Republic of Croatia, the differences between its legislation and *acquis communautaire* of the EU, which were confirmed during an analytical overview at the beginning of the negotiation process between the Republic of Croatia and the EU, have never been so significant that they would present an impediment to the fulfilment of the complete implementation of *acquis communautaire* since the first day of Croatia's membership in the EU.

Moreover, today the legislation of the Republic of Croatia, which sets the area of external and internal audit in the public sector, has almost completely been harmonised with the EU rules and refgulation. The Government of the Republic of Croatia, Ministry of Finance and the State

Audit Office made a series of action plans and act accordingly. These actions guarantee a continual rising of the readiness and capabilities of the institutions and bodies of the state management with the aim of successful implementation of *acquis communautaire* in the area of external and internal audit.

With the aim of achieving a complete and efficient implementation of the *acquis* in the area of financial supervision, the Republic of Croatia continues with further harmonisation of its legislation, as well as the strengthening of its administrative capabilities and therefore takes necessary measures and activities that would contribute to building capabilities and professional capacities for transparent and effective management, through establishment of training structure, technical support systems and other development activities.

IV. Convergence financial and budget regulations to the framework EU

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.[163]

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.

[163] 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.

1. Preparation for the management and implementation of European funds

Pre-accession assistance programmes[164] 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 whole set of criteria laid down by EU regulations and financial agreements concluded with the European Commission, regarding the implementation of a particular programme.

1.1. 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 Regulation[165] (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 system[166].

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)[167].

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[164] 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.

[165] 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).

[166] Official Gazette 141/2006.

[167] 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

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.

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.

1.2. 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

EC Directorate General for Budget was concluded.

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.

- **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. Sate 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.

- **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 Finance[168].

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

[168] 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.

reporting has not been described, therefore it is crucial to define the future role of irregularity officers.

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 AFCOS[169] 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.

- **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;

[169] The system for combating fraud and corruption.

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 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.
- **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.

- **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.

- **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.

1.3. 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.

1.4. 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.

1.5. 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.

1.6. 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.

2. 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 Act[170] some

[170] New Budget Act was published in the summer of 2008 (OG 87/08), and entered into force on 1 January 2009.

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.

2.1. Planning

The planning process of EU Funds is based on the following: programmes and application of the chronological principle. Since planning is a programmatical 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 levels[171] 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 Union[172].

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.

2.2. 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

[171] Programmes consist of measures, measures consist of priorities and priorities consist of projects.

[172] Financial Perspective lasts for seven years, and the implementation of the Financial Perspective 2007-2013 is ongoing.

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 6
Research Report 1.5

GLOBAL AND EU ADMINISTRATIVE LAW AND JUSTICE CONTEMPORARY TRENDS AND LESSONS TO BE LEARNED

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1. Administrative law and international organisations

To a considerable extend, the prevailing doctrine on administrative law was evolved through the historical experiences of countries in central Europe. for most of the countries of the old world, administrative law emerged during the 19th century, in a constitutional framework that placed special emphasis on the separation of state functions doctrine. For instance, the emergence of a particular public law system in France was initially related to historic experience, as proclaimed at art. 13 of celebrated law 16-24 of August 1790 that excluded the competence of civil courts on administrative matters[173]. In this way, a powerful, autonomous and systematic body of public law sprung out of the jurisprudence of the French *conseil d'etat*. In contrast, in England, the impact of the dominant liberal ideology and the institutional might of courts in the aftermath of the 1688 revolution led to a unified jurisdiction. notwithstanding their different ideological and historical origins briefly, and perhaps simplistically, exposed above, one cannot ignore that both theoretical approaches and models of public law, the continental one, primarily represented by French law, and the Anglo-Saxon one, are clearly visible in the different national administrative systems[174], irrespective of which one of the two appears to dominate in each system. in addition, other theories, of a different origin, also have a notable bearing on the evolution of modern (and by now, even post-modern) administrative systems. Scandinavian societies, for example, have developed a system of administrative law that is only secondarily based on judicial tradition, relying heavily on the institution of the Ombudsman[175].

For the continental European legal theory and tradition, administrative law is founded on two principles, emanating from the era of the French revolution: on the one hand on the principle of autonomy and self-reliance, meaning that public administration has its own, distinctive legal system; on the other hand, administrative law in continental Europe is based on the principle of the rule of law, whereby also the public sector, the state have to comply to the provisions of law.

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[173] J.-L. Mestre, *Introduction historique au droit administrative* (Libr. Générale de Droit et Jurisprudence, 1985). A de Laubadère, *Manuel de droit administrative* (Libr. Générale de Droit et Jurisprudence, 1967).
[174] M. Hauriou, *Précis du droit administrative et du droit public* (Sirey, 11th ed., 1927).
[175] J.A. Jensen, "Judicial Review of Legislative Acts", 3 European Public Law 1997, H.H. Vogel "Swedish Administrative Law in a State of Change" 3 European Public Law 1997.

While administrative law initially emerged and developed as a particular, a special branch within the wider theoretical and disciplinary area of public law, the transformation of structures and forms of governance, as well as of exercise of public power, have led to a system characterized by a mixture of public-private law principles, with the introduction of provisions emanating from private law (and the imbuing of principles of private law) to various functions of the public sector. It goes without saying, of course, that this influence is reciprocal, so that the principles and provisions of private law that have crept into the modus operandi of the public sector are particular ones, modified through their fusion with relevant public law principles.

International (or global, to use the popular, American-inspired, terminology[176]) regulatory systems are by now considerably widespread. Over the past few decades, they have exhibited an incredible development, multiplying in numbers and extending the breadth and depth of their competences. Human rights, commerce, the economy, the environment, fishing, the management of water resources, sea and air transports, agriculture, telecommunications, intellectual property, the space, energy resources, nuclear energy etc are but an indicative citation of some of the policy areas heavily, if not almost entirely, regulated by international conventions and international organizations. In fact, it is already credibly affirmed that there is no area of human activity that remains completely and entirely unaffected by the operation of some international regulatory system[177]. States are no longer able alone to observe fishing of migratory species, nor are they able to effectively regulate – with fragmented, and of local/regional/country-wide range interventions – the thresholds of omissions recognized as contributing facts of the green house effect. These gaps, that are created by the incapability of contemporary state structures and functions to produce a complete and effective system of controls and regulations[178], have to be filled by international/global regulatory bodies, namely by international and supranational organizations. The prevalence of global regulatory organizations, and through them, of an apparent de facto global governance, is founded on a new concept of sovereignty: Not the right and capability of self-determination, but the right, the opportunity and possibility of participation in global and inter-governmental formations, networks and institutions, that are essential for the perseverance of states, as they set the platform for resolving, through co-operation, problems and reaching policy goals that states alone, with competences and regulatory authority that is constrained within their defined territorial boundaries, are incapable of[179].

Research surveys and statistics exemplify the rapid expansion and increase in numbers of such organizations. Depending on the criteria adopted by each survey, the number of international organizations stretches from 245 (with the most stringent and restrictive criteria) to 7306 (with the most flexible ones) [180]. To make the point of the plethora of international

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[176] *Global regulatory systems* instead of *International*, just as *Global Administrative Law* instead of *International Administrative Law*.

[177] For an overall evaluation of the scope of international/global administrative law, R Wölfrum & V Roben (eds) *Developments of International Law in Treaty Making* (2005).

[178] F.G. Cerny "Globalisation and the Changing Logic of Collective Action" 49 International Organisation 595 (1995).

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[180] Union of International Associations, *Yearbook of International Organisations: Guide to Global and Civil Society Networks 2004-2005*. N. Blokker & H. Schermers (eds.) *Proliferation of International Organisations: Legal Issues* (2001). C. Shanks, H.K. Jacobson & J.H. Kaplan "Inertia and Change in the Constellation of International Governmental Organisations" 1981-1991 50 International Organisation 593 (1996).

organizations a bit more vivid, if there is such a need, one has to take into consideration that they are much more – calculated under any criteria – than the number of recognized, sovereign and independent states[181].

While contemporary structures for the exercise of public power solidify evermore the presence of international organizations, the determination of whether these organizations comply to administrative law requirements, and if so, of which nature, requires further analysis.

In assessing and analysing the administrative law of international organizations, certain basic principles should first be highlighted.

First, it has to be clarified that there is no homogeneity or uniformity between international organizations. Each of them is governed by their own statute, agreed and ratified by its member-states, with its own particular characteristics. Even the nature itself of international organizations differs. One could identify international organizations of a political nature, authorized to – and charged with – resolving crises in a diplomatic/political way, by intervening between states and mediating; or organizations of a politico-military nature, serving as forums for strategic co-operation; or organisations of a clearly scientific or economic nature.

Secondly, the partition of law into public and private has no immediate and direct effect on international organizations, as they are institutions exercising power beyond, and quite often above, states; they are not affected by the legal framework for the exercise of public power by states, or for the relations of states and citizens, or even the relations among citizens of a polity governed by the rule of law.

Administrative law, it is submitted, has advanced beyond state formations. Yet, it operates in the international level at a legal and institutional vacuum; the constitutional framework, in which the national/domestic administrative law operates, is missing. It appears, however, that international law is elaborating mechanisms and procedures for its 'constitutionalisation', mainly through rules of a constitutional content and nature. Notwithstanding recent trends towards 'constitutionalising' public law beyond states, the lack of a clear constitutional framework for the operation of global administrative law has provoked debates on the scrutiny and control, the accountability and legitimacy of international organizations. It should be noted, however, that these debates are predominantly limited to the lack of democratic control, which is undoubtedly missing, without going into a deeper analysis of the possibility and sufficiency, appropriateness and adequacy of applying democratic criteria in organizations of such nature. It is, in any case, beyond any doubt, that if globalisation is to be founded on –and to promote, as its supporters assert- principles of democratic organization of power and society, every institution exercising public power, whether state, supra-state or international, should enjoy satisfactory levels of democratic legitimacy. New forms of control and accountability should be examined, and if need be, designed; forms that would correspond to the particular characteristics of these organisations[182].

A set of general principles of administrative law seems to have already prevailed globally. The principle of legality, the right to participate in the decision-making process, the right to prior hearing of the interested and affected parties, the right to consultation, the right to access

[181] According to official data of the UN, they are 191. Growth in United Nations Membership, 1945-2005, www.un.org/Overview/unmember.html

[182] J. Cohen & C.F. Sabel "Global Democracy?" 37 (4) International Law and Politics 763 (2005).

documents, the obligation on the part of the administration to justify administrative acts and decisions, the principle of founding decision on scientifically sound and provable grounds, the principle of proportionality, the principle of transparency, to mention bit a few.

A critical issue raised by the existence of a plethora of international regulatory organizations has to do with system of judicial review and protection. It appears that there is no uniform answer to the question who is competent to review compliance of the decisions of international organizations to generally recognized principles of law, the national courts or the tribunals and the judicial formations that exist in the internal structure of specific international organization. There are cases, where national courts have the competence to review decisions of the international regulatory organizations[183]. More interesting, however, is the ever-increasing number and scope of competences of administrative tribunals that form part of the overall architecture of an international organization.

So far, the administrative law of international organizations is identified as the one developed and formulated by the jurisprudence of their administrative tribunals. For the Anglo-Saxon legal tradition, this corresponds to some form of labour/employment law, while for the continental legal tradition, it constitutes classic administrative law. For some time, public law scholars were hesitant in recognizing this area of administrative law as a legal system. Only recently, and after the publication of some seminal works on what has been commonly termed Global Administrative Law, the systematisation of this area of law has begun to look likely. The discourse on European administrative law, contrarily, is far more advanced.

There are four (4) basic differences between domestic and European administrative law[184]:

a) Domestic administrative law is founded on one, and single authority, the Government. European administrative law, on the other hand, recognizes two authorities, the Council and the Commission, which preside over the public administration at the EU level; it has to be born in mind also that the composition of the EU is complex, as it combines both European and national/domestic (i.e. of member-states) administrative bodies[185].

b) Domestic administrative law is characterized by a bi-polar relationship between the citizen and the Administration. The European administrative law is characterized by a tri-polar relationship, between citizens, the Commission and the national governments[186].

c) Domestic administrative law forms a special branch of law, and public administration may impose it directly, while the enforcement of European administrative law is guaranteed either through the jurisprudence of the ECJ or with the assistance of member-states' public administration.

d) Domestic administrative law is based on the national/domestic Constitution, and the legal order that it [the Constitution] describes. The European administrative law, due to the lack of a Constitution, draws its constitutional foundations from the Treaties, the general principles of law and the common legal traditions of member-states in the area of administrative law.

Apart from the differences and particularities that global administrative law presents vis-à-vis traditional domestic administrative law, it also demonstrates important similarities; it regulates the relations of an organization with regulatory competences and powers, that issues

[183] A. Reinisch, *International Organisations Before National Courts* (2000).
[184] H. Kassim "The European Administration. Between Europeanisation and Domestication" in J. Hayward & A Menon (eds.) *Governing Europe* (OUP, 2003).
[185] Art. 202, 211, 5(2), 10 TEC, and Statement no. 43 inserted in the Amsterdam Treaty.
[186] Art. 85 and 88(1), (2) TEC.

decisions and acts (or omissions) directed both to its members but also to third parties, while there is also a – more or less developed- system of judicial review and protection for resolving or mediating disputes arising from the operation of the organization.

Be that as it may, global administrative law distinguishes itself from domestic on yet another crucial point, the lack of exclusive jurisdiction.

Provisions, for example, regulating tuna fishing can be sought both in a special treaty, the treaty for the protection of tuna, and in the general stipulations of the Law of the Sea. The Committee for the protection of bluefin tuna applies not only the provisions of the specific treaty, under which it is established, but also the decisions adopted by FAO. Hence, three distinct international legal frameworks are involved in the regulation of tuna fishing[187].

The environment is regulated by the World Meteorological Organisation (WMO)[188], the UN Framework Convention on Climate Change-Clean Development Mechanism (UNFCCC-CDM)[189], and the Global Environmental Facility (GEF)[190] -each of them possessing their own executive bodies – the Programme for the Environment of the UN, the UN and World Bank Development Programme[191].

In the economic area, there is also a plethora of regulatory authorities: IMF, World Bank, Basel Committee on Banking Supervision, Financial Stability Forum (FSF), Financial Stability Institute (FSI), Committee on Payment and Settlement Systems, Egmont Group, Financial Action Task Force on Money Laundering (FATF), International Organisation of Securities Commissioners (IOSCO), International Association of Insurance Supervisors (IAIS), International Accounting Standards Board (IASB) etc. The increase in numbers of international economic/financial organizations, and the need to somehow coordinate their actions and operations has, in fact, led to the establishment of yet more and new bodies, to which several of the abovementioned organizations participate, like the Joint Forum, created in 1966 by the IOSCO and the IAIS under the auspices of the Basel Committee[192].

International organizations are most commonly established by inter-state agreements, as in the case of the UN. At the same time, sub-state institutions may agree to establish international organizations. For instance, national institutions regulating the stock markets cooperate in the frame of the IOSCO, national institutions dealing with social security matters participate in the IAIS, authorities for the protection of fair competition are members of the International Competition Network (ICN), while the Financial Stability Forum (FSF) is promoted by the Finance Ministries and the Central Banks of the G7.

Another distinctive group of international organizations are the ones that are established not by states, but by other international organizations. For example, the International Centre for Settlement of Investment Disputes (ICSID) [193], was created by the World Bank.

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[187] *Southern Bluefin Tuna* Case (Australia & N. Zealand v Japan), ICSID (WB) 91, www.worldbank.org/icsid/bluefin tuna/award080400.pdf, S Cassese "Administrative Law without the State? The Challenge of Global Regulation" 37(4) JILP 2005, p. 669.

[188] www.wmo.ch/web-en/about.html

[189] UNFCCC, *The Mechanisms under the Kyoto Protocol: Joint Implementation, the Clean Development Mechanism and Emissions Trading*, unfccc.int/Kyoto_mechanisms/items/1673.php

[190] www.gefweb.org

[191] www.unep.org, www.undp.org, www.worldbank.org

[192] www.iaisweb.org/134_1343_ENU_HTML.asp

[193] www.worldbank.org/icsid/about/about.htm

Further to the synergies identified above, elements of organizational and functional cooperation are also recognizable. Examples of organizational interrelations are the participation of the General Director of the WTO to the Executive Council of the UN, the participation of the President of the World Bank in the presidium of the board of directors of ICSID, the appointment of the Secretary of UNFCCC-CDM by the Secretary General of the UN; in addition, there are several examples of one organization 'lending' its institutions to another organization, like in the case of ICSID that was created to resolve disputes arising from the investment activities of the World Bank, but is also dealing with disputes in the frame of NAFTA, the Energy Charter Treaty, the Cartagena Free Trade Agreement (CFTA) and the Colonia Investment Protocol of Mercosur etc.

Examples of functional relations between international organizations can be identified, e.g. in the set of agreements between the World Intellectual Property Organisation (WIPO) and the WTO[194].

Although the plethora of international organisations, as already stated earlier, is not characterised by homogeneity, or by some identifiable and commonly followed forms of organisation, one could distinguish some general, and repeated functions. The most common and important ones are the coordination, the promotion of cooperation, the harmonisation of different institutional frameworks and the establishment, or imposition, of standards, what is in other words known as 'standardisation'.

States have a stable distinction and division of competences and powers among their organs; international organisations have, at most, distinctions of the functions performed by each of their bodies. The organisational structure of international organisations is commonly distinguished into four basic bodies: a collective body, of a collegiate nature, usually referred to as the Assembly, composed of the members of the organisation; a more restricted collective body, in most cases called the Council, the members of which are usually elected by the Assembly; an executive body, usually referred to as the Secretariat; and a variety of committees composed of officials from national administrations.

International Administrative Tribunals have been, by now, established in all, or at least in most, international organisations, with the aim of adjudicating on disputes between the organisations and their personnel/staff. Their establishment aimed at filling the jurisdictional gap that existed, as international organisations fall under no national jurisdiction. The absence of a system of adjudicating on disputes of such a nature could have risked them having to fall under a national jurisdiction; and such a prospect would have been most unwelcome by international organisations, as it would have restricted their independence from nation-states and states' judicial systems.

The Society of Nations established its administrative tribunal in 1927; its structure was informed the creation of the tribunal of the ILO in 1946, while in 1949 the UN also established its own administrative tribunal[195]. The World Bank created its tribunal in 1980, and the IMF in 1994.

To the question "what is an international administrative tribunal?", Professor Robert Gorman, having served many terms at the World Bank administrative tribunal and at the tribunal of the

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[194] C. Tietje, *Global Governance and Inter-Agency Co-operation in International Economic Law*, 36 Journal of World Trade 501 (2002).

[195] C.F. Amerasinghe, *The Law of the International Civil Service: As Applied by International Administrative Tribunals vol I* (2nd ed., 1994).

Asia Development Bank, replies that the most common and simple reply would be to say that it is an international civil service arbitration tribunals, to which employees of an international organisation resort for a final –and binding for the organisation- resolution of the disputes arising within the frame of their employment[196].

Access to the protection afforded by international administrative tribunals is conditioned on a set of procedural requirements, relating to time-frames, the right of locus standi etc. Issues relating to the legality of procedures have been recognised by international administrative tribunals as substantial. Compliance to procedural rules is of equal importance as compliance to substantive rules[197].

2. The Civil Service Tribunal of the EU

There is, hence, over the past decades, a rapid growth of the phenomenon of setting up administrative tribunals within international organizations, whose exclusive competence is to resolve employment disputes[198].

The EU Civil Service Tribunal (henceforth: CST) is such a judicial body. The comparison between long established judicial formations of international organizations and the recently established CST brings to the fore similarities and differences, as well as basic, common principles of organization and operation. It contributes, at the same time, to the understanding of certain choices on the structure, the organizational architecture, the functions and the competences of the recently created CST.

The comparison and juxtaposition of these judicial bodies, and the search for common principles, operating methods and structures is especially interesting also from a more practical point of view: there are innumerable examples of employees shifting from the EU to an international organization and vice versa. The UN has special rules and laws for the status of employees transferring from one organization following its system of salaries and allowances to another (especially concerning financial matters, like allowances, pension schemes, loans etc[199]); it would be interesting to assess the effects on the status of an employee – if there are any – that decides to transfer from the EU to an international organization and/or vice versa.

Furthermore, the interaction between international administrative tribunals are not limited to issues of organization, internal structure, function, responsibilities, process, etc. but has extended to issues of jurisprudence. Indeed, the International Tribunal of the World Bank, in its very first decision, with which it announced its presence in the area of international jurisdiction, did not fail to mention that, given the particular history, function and mission of the Bank, the Court will shape its jurisprudence by sometimes resorting to the jurisprudence

[196] R.A. Gorman "The Development of International Employment Law: My Experience on International Administrative Tribunals at the World Bank and the Asian Development Bank" 18 ERPL 2005, no 1.
[197] Decision 1213, *Wyss* (2004) UN International Administrative Tribunal.
[198] *International Organizations Immunities Act* (IOIA, 22 U.S.C.§288a(b), 2000): "*international organizations, wherever located, shall enjoy the same immunity from suit and every form of judicial process as is enjoyed by foreign governments*". By decision of the US Congress and the President, this wide immunity status has been also granted to the World Bank. The Bank may have lifted immunity status for disputes arising with suppliers and other third parties, but not for disputes between the organization and its employees.
[199] *"Inter-Organization Agreement concerning Transfer, Secondment or Loan of Staff among the Organizations applying the United Nations Common System of Salaries and Allowances"*.

of other similar international administrative tribunals, without, however recognizing them the binding power of precedent[200].

It has already been stated that the international administrative tribunals are mainly judicial formations to whom the task of resolving employment disputes has been assigned; most frequent and common among the cases brought before them have to do with alleged breaches of employment contracts and of the conditions for recruitment of staff from an international organization. It should be noted that these employment contracts and the conditions they entail are not the result of collective bargaining and negotiations, as is commonly the case in European countries – for both the public and the private sector-, between statutory bodies representing employers and employees' and workers' unions. There may be unions and associations of employees in several international organizations, which in many cases even have a consultative role in the determination of employment relations, but this does not mean that they are recognized as statutory bodies representing employees of the organization, authorized to conduct collective bargaining and negotiations on working conditions with the employers – the organization's administration- on behalf of their members.

2.1. The establishment of the CST

The Nice Treaty of 2009[201] provided for the establishment of judicial formations for special matters. More specifically, art. 220 TEC was revise by the Nice Treaty, and in its second paragraph stipulates that

«*In addition, judicial panels may be attached to the Court of First Instance under the conditions laid down in Article 225a in order to exercise, in certain specific areas, the judicial competence laid down in this Treaty*».

Furthermore, art. 225^{A}, that was attached to the TEC by the Nice Treaty, sets the ground principles for the manner of establishing new judicial panels on specific issues, as well as rules on their composition and judicial competence:

«*The Council, acting unanimously on a proposal from the Commission and after consulting the European Parliament and the Court of Justice or at the request of the Court of Justice and after consulting the European Parliament and the Commission, may create judicial panels to hear and determine at first instance certain classes of action or proceeding brought in specific areas.*

The decision establishing a judicial panel shall lay down the rules on the organisation of the panel and the extent of the jurisdiction conferred upon it.

Decisions given by judicial panels may be subject to a right of appeal on points of law only or, when provided for in the decision establishing the panel, a right of appeal also on matters of fact, before the Court of First Instance.

The members of the judicial panels shall be chosen from persons whose independence is beyond doubt and who possess the ability required for appointment to judicial office. They shall be appointed by the Council, acting unanimously.

The judicial panels shall establish their Rules of Procedure in agreement with the Court of Justice. Those Rules shall require the approval of the Council, acting by a qualified majority.

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[200] World Bank Administrative Tribunal, Decision 1 (1981) *de Merode*.
[201] In force since the 1st February 2003.

Unless the decision establishing the judicial panel provides otherwise, the provisions of this Treaty relating to the Court of Justice and the provisions of the Statute of the Court of Justice shall apply to the judicial panels».

The Nice Treaty, in fact, provided for the establishment, as soon as possible, of a judicial body for the resolution of disputes between the Community and its staff. According to Statement no 16 in relation to added art. 225^{A} TEC, the Intergovernmental Conference called the ECJ and the Commission to draft urgently a decision for the creation of a judicial panel with the competence of adjudicating on first instance on disputes between the Communities and their staff. The CST is the first from what can be assumed to be a line of specialised bodies with judicial competence in the EU (another example is the European Community Patent Court[202]).

The creation of the CST, apart from the undoubted decongestion of the existing judicial system of the EU, was also attributed to the enhanced role and elevated status of the Court of First Instance (CFI) that, until the Nice Treaty was the competent body to rule on employment disputes, and since then is exclusively competent to adjudicate on first instance on important cases.

Statistically, as early as 1985, hence even before the establishment of the CFI, the employment cases brought before the ECJ were 433, while in 1970 they were just 79. Already since 1978, the Commission had proposed, following a relevant opinion expressed by the Council, the creation of an administrative tribunal for employment disputes[203]. Given, now, that the CFI was also considered a court specializing in employment cases, as the majority of cases brought before it involved employment relations, it could be claimed that a court, or rather a tribunal, specializing in resolving civil service disputes in the EU existed ever since 1988 (the creation of CFI), and that in 2005 it was re-created under a new title and with exclusive competences[204].

On the 2nd November 2004, the Council adopted decision 752/2004/EC, EAEC for the establishment of the Civil Service Tribunal of the EU. The intention of the Council was for it [the tribunal] to commence its business within 2005, so as to contribute to lifting part of the workload of the CFI, and to offer more specialized judicial review of employment affairs.

According to Council Decision 752/2004, the Civil Service Tribunal of the European Union (EU CST) is attached to the CFI as a judicial panel competent to adjudicate on disputes involving the European public administration. The CST is based in the CFI. PLR EU established the Court. The Council decision also amended the Statute of the Court. A new title, title IVa was added, on judicial panels, providing that the clauses on the jurisdiction, composition, organization and rules of procedure of these panels, established as stated above under Article 225a TEC and 140B EAEC, are appended to the modified Statute of the court.

The Lisbon Treaty (formerly also known as the Constitutional Treaty, the European Constitution, or the Reform Treaty) provides for the creation of a Court of the EU, that will

[202] The proposal was submitted by the Commission in November 2003. COM (2003) 705 final. See also N Lavranos "The new specialized courts within the European judicial system" 30 ELRev 2005, p. 261 ff.
[203] OJ C 222, p. 6.
[204] Π. Σκουρή, *Το Ευρωπαϊκό Υπαλληλικό Δίκαιο και το Δικαστήριο Δημόσιας Διοίκησης της Ευρωπαϊκής Ένωσης* (Σάκκουλας 2006). P Skouris, *European Employment Law and the Civil Service Tribunal of the EU* (Sakkoulas 2006).

contain the ECJ and the CFI (and will be called the "ordinary" court), and special courts. The Lisbon Treaty also provides for easier resort of citizens and business to the judicial protection afforded by the EU system against regulations of the Union, even in cases where they [the plaintiffs] are not immediately and individually damaged by them.

For the CST, the new Treaty provides that it will no longer be called tribunal, but will be renamed (and upgraded) to court.

2.2. The composition

Although the Court consists of seven (7) judges, their numbers may increase by a Council decision adopted by qualified majority at the request of the Tribunal itself205. The term of members of the Tribunal is for six (6) years, renewable. Judges are appointed by the Council, by a decision taken under Article 225a para. 4 TEC and 140B para. 4 EAEC, after consulting the Committee provided for by this article. The selection criteria of the Council refer to a balanced composition and the representation of widest possible geographical basis among nationals of Member States, and legal systems[206].

Further, the Council adopted a decision in relation to the qualifications and prerequisites of candidates for the position of judge at the CST[207]. Summarily, every citizen of the EU that fulfils the conditions set out in arts 225A para. 4 TEC and 140B para. 4 EAEC may submit his/her candidature.

Candidate judges must:

– Satisfy all guarantees for independence,

– Have the necessary competences for the exercise of their judicial duties,

– Have EU citizenship[208].

The Council, deciding by qualified majority, upon the recommendation of the Tribunal, determines the procedures for submitting and assessing the candidatures[209]. The committee that aids the Council in its decision is composed of seven (7) members, which are personalities of known stature and legal experience, former judges of the ECJ and the CFI and legal scholars of considerable reputation. The Council, again, decides for the appointment of the committee, as well as for its modus operandi, by qualified majority, upon the recommendation of the President of the Tribunal[210]. The committee opines on the adequacy and competences of candidates in relation to the demands of the position of judge at the CST. The committee's opinion is accompanied by a list of candidates that satisfy the criteria and requirements and possess the most appropriate – high level – experience. This list should include at least twice as many candidates as

[205] Art. 2 CST Statute.
[206] Art. 3§1 CST Statute.
[207] Council Decision of 18th January 2005 concerning the conditions and the other details for the submission and evaluation of candidatures for the appointment of judges at the CST of the EU (2005/150/EC, EAEC), EE L 50/7, 23.2.2005.
[208] Apart from these minimum requirements, the consultative committee set up by the Council also takes into consideration, among other things, the capability of candidates to work in the frame of a collective structure in an international and multilingual environment, as well as the nature, depth and breadth and extend of their experience, that is considered appropriate for the exercise of their duties.
[209] Art. 3§2 CST Statute.
[210] Art. 3§3 CST Statute.

the judges that will actually be appointed to court.[211]. The President of the CST is elected among its members and his/her term is renewable.

In January 2005, the Council adopted a decision in relation to the rules of procedure of the committee of art 3§3 of appendix I of the Protocol on the Statute of the Court, that refers to the Tribunal[212]. In accordance with the abovementioned rules of procedure, the term of the members of the committee is four (4) years, renewable. The chairman of the committee is selected by the Council among its members. The quorum is set at five (5) members present. The General Secretariat of the Council offers its assistance in the form of secretarial support. In a latter decision, in January 2005[213], the Council determined the following composition for the committee:

Mr. Leif SEVÓN, President,

Sir Christopher BELLAMY,

Mr. Yves GALMOT,

Mr. Peter GRILC,

Ms Gabriele KUCSKO-STADLMAYER,

Mr. Giuseppe TESAURO,

Mr. Miroslaw WYRZYKOWSKI.

The committee decides by simple majority. In case of a tied vote, the vote of the chairman prevails.

In July of the same year, the Council issued a decision on the composition of the CST[214]. So, the first judges to serve at the newly, back then, judicial panel, are:

– Irena BORUTA,

– Stéphane GERVASONI,

– Heikki KANNINEN,

– Horstpeter KREPPEL,

– Paul J. MAHONEY,

– Χαρίσιος ΤΑΓΑΡΑΣ, (Charisios Tagaras)

– SeanVAN RAEPENBUSCH.

Paul J. Mahoney was elected among his peers to preside over the meetings of the Tribunal.

The term in office of the President is three (3) years, renewable. This applies for the usual procedure of appointment of judges, and not if the Council decides to apply the procedure of art. 4§1 of added appendix I of the Statute of the Court[215].

[211] Art. 3§4 CST Statute.
[212] Council Decision of 18th January 2005 on the rules of procedure of the committee of art. 3§3 of appendix I of the protocol on the Statute of the Court (2005/49/EC, EAEC), EE L 21/13, 25.01.2005.
[213] Council Decision of 18th January 2005 on the appointment of members of the committee of art. 3§3 of appendix I of the protocol on the Statute of the Court (2005/151/EC, EAEC), EE L 50/9, 23.2.2005.
[214] Council Decision of 22nd July 2005 on the appointment of judges at the Civil Service Tribunal of the European union (2005/577/EC, EAEC), EE L 197/29, 28.7.2005.

Immediately after the giving of oath by the members of the Tribunal, the President of the Council selects by lot three (3) judges, whose term will end –in contrast to art. 2§2 first phase of appendix I of the Statute of the Court- after the first three (3) years of their term in service[216]. The three members that were selected by lot to serve for a reduced term of three (3) years were:

- Irena BORUTA,
- Horstpeter KREPPEL,
- SeanVAN RAEPENBUSCH.

The Tribunal convenes in panels of three (3) members. The rules of procedure determine the competences and the quorum of the plenary, as well as the composition of the panels, and the assignments to them.

The CST relies on the services of the ECJ and the CFI. The President of the ECJ and/or the President of the CFI determine, jointly with the President of the CST the terms and conditions under which the staff of the ECJ and/or the CFI offer their services to the CST. The CST appoints its own secretary and determines his/her employment status.

The Secretary is responsible for the keeping of the protocol and the files of the pending cases, for receiving, transmitting, serving and keeping of documents, for correspondence with the litigants and the third parties and the safekeeping of the CFI seal. S/he caters for collecting the levies to the secretariat and the amounts owed to the CFI repository. S/he is also in charge of the publications of the CFI.

In applying –and complying with- the principle of access to documents, the litigants may consult, at the offices of the secretariat the original file of the case, including all sorts of files of administrative nature that have been deposited to the CST, to request copies or excerpts of documents of the procedure and of the protocol. Representative of intervening third parties have the same rights, and so do litigants in cases tried jointly, with the reservation of para. 4 of art. 1 of regulation no 1 of the Council in relation to the confidential character of some data or documents of the case file.

2.3. Competences

According to art. 1 of its Statute, the CST

"*shall exercise at first instance jurisdiction in disputes between the Communities and their servants referred to in Article 236 of the EC Treaty and Article 152 of the EAEC Treaty, including disputes between all bodies or agencies and their servants in respect of which jurisdiction is conferred on the Court of Justice.*"

Apart from the annulment of certain decisions of the EU Administration, the CST may consider requests for compensation. Indeed, according to its rather limited so far jurisprudence, the Tribunal may make an assessment and may rule on claims for compensation, even if the compensation amount requested is not specifically mentioned by the plaintiff, as long as it can be accurately calculated by the Tribunal itself[217].

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[215] Art. 3§1 Council Decision 752/2004/EC, EAEC.
[216] Art. 3§2 Council Decision 752/2004/EC, EAEC.
[217] F-126/05, ibid, para. 72.

The Tribunal may issue decisions on interim relief (injunctions). The President of the Tribunal considers requests for interim measures, relying mainly on the practice and the jurisprudence of the CFI. Thus, in accordance with art. 104 (2) of the CFI Statute, requests for interim relief measures must state the circumstances that indicate the urgency of the case, for which temporary protection is sought, and also the legal and substantial reasons and claims that warrant the injunction prima facie. Both these factors must be present for the request for interim protection measures to be granted[218].

The CST rules on the costs. Subject to specific provisions of the Rules of Procedure, the defeated party is called to pay the costs, if such a request was submitted by the winning party[219].

Decisions of the CST may be annulled by the CFI. Requests for annulment are grounded on legal issues. Possible grounds for annulment may be the incompetence of the Tribunal, a breach of the rules of procedure affecting the rights of the interesting party, and the breach of Community law by the Tribunal. No request for annulment may be solely grounded on the attribution and/or the calculation of the amount of the costs of the judicial proceedings.

The annulment is permissible in the following cases:

- Final decisions of the Tribunal, as well as
- decisions that partly resolve the difference in substance, or decisions disposing of a procedural issue concerning a plea of lack of competence or inadmissibility,
- The parties may request an annulment before the CFI of a decision of the CST issued under Articles 242 or 243 or Article 256 para. 4 TEC or under Articles 157 or 158 or Article 164 para. 3 of EAEC.

The request for annulment must be submitted within two (2) months from the notification of the contested decision[220]. The request may be submitted by the party that was defeated fully of partly. The intervening parties, with the exception of member-states and the EC bodies, may not request an annulment, unless the CST decision directly affects them. Intervening parties have the right to request an annulment of a CST decision only if their request for intervention in the first instance proceedings before the CST was rejected, and only within two (2) weeks from the notification of the rejection[221]. Subject to arts 242 and 243 TEC and arts 157 and 158 EAEC, filing a request for annulment of a CST rule does not suspend the execution of the decision[222].

The procedure before the CFI in cases brought before it for the annulment of a CST decision consists of two stages: the written and the oral one. The Court, however, under the conditions specified in its rules of procedure, and after hearing the parties, may dispense with the oral procedure.

If the request for annulment is upheld, the Court sets aside the decision of the Tribunal, and rules on the dispute. It may also return the case to the CST, if it considers that the dispute is not ripe enough for a ruling[223]. In such cases, the CST is bound by any decision the CFI may have taken on legal[224].

[218] Order of the President of the CFI in case T-120/01 *De Nikola v EIB*, para. 12.
[219] Art. 7 CST Statute.
[220] Art. 9 para. 2 CST Statute.
[221] Art. 9 para. 2 & 10§1 CST Statute.
[222] Art. 12§1 CST Statute.
[223] Art. 13§1 CST Statute.
[224] Art. 13§2 CST Statute.

3. Concluding remarks

Globalisation, and the subsequent "opening up" of national legal systems, is largely based on the law. The law is the mechanism that would allow globalisation to develop appropriate, harmonized with each other, regulatory frameworks for the functioning of the economy and the organization of society.

Moreover, and concurrently with the process of harmonising nation-states' regulatory frameworks, the creation of other ones, supra-state, international regulatory frameworks is fiercely promoted; such frameworks operate beyond and above nation-state ones, without automatically and directly causing their harmonisation, degrading and also downgrading their importance and relevance. These international regulatory frameworks take the organizational structure of international organizations, with their own system of legal protection for their affairs with their staff.

In recent years, the firm harmonization of national systems has reached even the nucleus of the nation state, public law. In the EU, which also is a model of "globalisation", at a local-European level, the recognition of a quasi-constitutional framework, as expressed so far by the Treaties and the jurisprudence of the ECJ in recent decades, has brought about and promoted discussions on a European Administrative Law. In fact, discussions have now advanced to forming a Constitutional Treaty, the Lisbon Treaty, which, although it will not fundamentally change the – already of a constitutional nature- context and nature of the Union, however, has undoubtedly great symbolic value.

The CST is the expression, at the EU level, of a trend observed in international organizations, that of autonomous settlement of administrative disputes by judicial formations that operate in within the organization itself. In European law, the establishment of the Tribunal introduced some innovations. For the first time, for example, and following the model of administrative tribunals of other international organizations, judges of such judicial formations are selected and appointed not by the usual procedure applied for the composition of the ECJ and/or the CFI (i.e., the proposal by member-states, and therefore their representation in the panels), but by an open call for expression of interest, with opinion expressed by an expert panel and a final ratification procedure by the Council. It should be noted that the procedure followed for the composition of the Tribunal, a procedure that will in the near future be applied for every special judicial formations that may be created, and by the courts, was foreseen already by the Constitutional Treaty, long before it was ratified and put in force. Yet, it was already applied for the establishment and composition of the Tribunal!

It is still too early to draw reliable conclusions as to the benefits of the functioning of the Tribunal, and the problems that may arise. It is perhaps even more early and risky to comment on the case law, as the jurisprudence of the Tribunal is now taking shape. It will require some time to assess whether the Tribunal has decided to follow the jurisprudential path waved by its predecessor in cases of employment disputes, the CFI, or it will break from the past, and develop its own, autonomous jurisprudence. It will also be interesting to assess to what extend the Tribunal will attempt to apply principles, practices and rules recognized by other administrative tribunals of international organizations, or if it will stay away from such judicial interactivity and remain largely within the confines of hardcore EU judicial paradigms. One thing seems, however, to be certain: the justice system of the EU, its judicial system, is going through a period of significant change, which can give new impetus to the European integration project, especially through the "constitutionalisation" of the nature of the EU and the strengthening of its "state-like" existence.

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