

New Wine in Old Wineskins: General Administrative Procedure and Public Administration Reform in Croatia

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ABSTRACT

In 2009, Croatia adopted the new General Administrative Procedure Act (GAPA), which introduced several novelties in the regulation of general administrative procedure. The main research topic deals with the changes that the new GAPA, as an incentive for public administration reform in Croatia, has produced. The empirical data were collected within the EU funded IPA project "Support for the implementation of the General Administrative Procedure Act" (2012–2013) and interpreted on the basis of institutional theory. Despite changes to the legal text, the empirical data show that the new GAPA has not resulted in actual changes in everyday public administration.

Key words: general administrative procedure, Croatia, modernization of public administration, administrative law, institutional theory, historical institutionalism

JEL: : K20, K23, K30, K39

1 Introduction

Reforms in public administration can be defined as changes that result in significant institutional innovations, are undertaken periodically, and represent a mix of structural, functional, personal and other measures (Koprić et al., 2014). There are several incentives for public administration reform, such as the adoption of new legislation, reorganisation of administrative bodies, personnel changes, the introduction of new processes and methods of work in public administration, etc.

The reform of public administration has been on the agenda of many countries in recent years. This is especially the case in the countries of Eastern Europe, as part of their EU accession process. However, administrative reform in these countries, in many cases, is understood simply as changes to the formal rules (legislation), rather than the expectation that such changes will automatically result in actual changes in everyday administrative practice.

Croatia belongs to a group of countries that have codified their administrative procedural laws (Đulabić, 2012). This tradition is quite old and dates back to the early 20th century, when Austria adopted its first General Administrative Procedure Act, which served as a role model for the first GAPA of the Kingdom of Yugoslavia (adopted in 1930). This act, with some amendments, survived in the territory of former Yugoslavia for almost 80 years. Croatia, as a successor country, inherited the old Yugoslav GAPA, formally adopted in 1956, but as has been previously shown, its roots went back two decades earlier (Koprić, 2006).

The new legal regulation of general administrative procedure should be considered an incentive for its modernization and for the modernization of public administration in Croatia. The purpose of this paper is to show that reform of legislation is not a universal remedy (panacea) for public administration reform. An analysis of the reform of the General Administrative Procedure Act (GAPA) is used as a case study to show that deeply rooted legal institutions, such as codified administrative procedures in Croatia, have a tendency to survive, despite the fact that the legal norms regulating such institutions have changed. According to the historical institutionalism approach, changes to the legal text itself will not result in real changes in the everyday work of public administration, if those changes are not significant enough to provide a basis for departure from existing practice (Peters, 1999, p. 23). In order for reform to happen, deep and thorough change in institutions should take place, followed by clear human and financial support, as the main prerequisites for the success of reform (Koprić et al., 2014)¹.

The main efforts to draft the new GAPA were undertaken within the EU CARDS project "Support for public administration and the civil service in Croatia", which was implemented in the period 2005–2007. After more than two years of public debate and lengthy technical preparation, the Croatian Parliament passed a new General Administrative Procedure Act (*Zakon o općem upravnom postupku*, Official Gazette 47/09) on 27 March 2009. The new GAPA superseded the old GAPA (formally dated 1956, but originally dated 1930), after more than fifty years of application and many, mainly cosmetic, amendments. The new GAPA came into force on 1 January 2010 (on the genesis of the new GAPA see: Medvedović, 2009; Đulabić, 2009, 2009a).

The drafting process of the new GAPA took place in a very transparent manner and took into account a fairly broad public debate within the EU-funded CARDS project "Support for public administration and the civil service in Croatia." So the reform was mostly supply driven and was the result of the Europeanization of public administration (Koprić & Đulabić, 2009). The Working Group established under the CARDS project developed a Draft General Administrative Procedure Act and upon completion of the project

¹ Other prerequisites are political support, organisational capacity, sufficient time for strategy development, etc. (Koprić et al., 2014).

(September 2007) submitted it to the Ministry of Administration. A year later (September 2008) the draft GAPA although substantially modified, was sent into the legislative procedure. In February 2009, the third, again significantly modified version of the GAPA, was sent to a second parliamentary reading. At the end of March 2009, the Croatian Parliament adopted the new General Administrative Procedure Act.

After two and a half years of implementation, the impact of the GAPA on public administration could be assessed. The empirical data for the assessment come from research undertaken within the EU funded IPA Project "Support for the implementation of the General Administrative Procedure Act" (IPA, 2012). During a five-month period (January–June 2012) the empirical research was undertaken with the main aim of assessing the attitudes of Croatian civil servants towards the new Act. The research consisted of qualitative and quantitative elements and covered the implementation of the GAPA in ten legal areas covered by the new Act. Altogether, 214 civil servants participated in the quantitative (on-line) survey, and 147 in the qualitative research (55 were interviewed face-to-face using semi-structured interviews and 98 participated in group discussions organized in 11 focus groups across the country) (IPA, 2012, p. 9, 51; IPA, 2012a).²

Part Two of this paper assesses the main characteristics, improvements and modernization potential of the new GAPA. Part Three deals with the issue of special procedures in the Croatian legal system, which represents an important element in relation to general administrative procedure. The correlation of the new GAPA with some institutes in EU law is covered in Part Four. The impact of the new GAPA on the whole administrative system is the subject of concluding Part Five. Throughout the paper, empirical data and other evidence are used to support the claims and statements put forward. Research data are interpreted on the basis of institutional theory, especially normative and historical institutionalism as two variants which provide a framework for understanding why significant changes have not occurred (Peters, 1999; March & Olsen, 2005).

2 The civil servants surveyed represented three target groups (state administration, local and regional government, and public service providers) and ten legislative areas. The areas covered the following: 1. Education, sport and culture, 2. Health and social welfare, 3. Infrastructure, utilities and transportation, 4. Economy, 5. Finance, 6. Physical planning, construction and environmental protection, 7. Agriculture, rural development and forestry, 8. Tourism, 9. International relations and EU integration, and 10. Legal affairs and property. The civil servants surveyed also represented different Croatian regions (IPA, 2012, p. 21–22, 40–41). The eleven focus groups were organized in nine towns in Croatia (three in Zagreb and one each in Split, Zadar, Rijeka, Pula, Osijek, Vinkovci, Varaždin and Karlovac) combining a mixed approach with the focus on only one legislative area (IPA, 2012a).

2 Characteristics, Improvements and Modernization Potential of the New Act

Several improvements should be emphasized as the main characteristics of the new GAPA, but also it should be stated that the new Act is still very much rooted in the logic of the old administrative procedure.

The new GAPA is divided into eleven parts and contains 171 articles compared with almost 300 articles in the old Act. This means there are 120 articles fewer. Nevertheless, a comparison of the number of actual provisions shows that the new Act still contains around 500 legal regulations, which is quite a large number in comparison with other European administrative procedure acts. The old Act had approximately 750 legal regulations in almost 300 articles. Thus, the new Act is actually about 20% shorter than the previous one in terms of the number of actual legal provisions (Koprić, 2010).

The new GAPA has several improvements and some new legal institutes. These are: (1) the introduction of new legal terminology, (2) the simplification of language and reduction of legal text, (3) the reduction to a certain extent of the over-casuistic provisions of the old Act, (4) the introduction of new general principles of administrative procedure, (5) the definition of administrative matter and the wider application of the new Act, (6) the use of IT in administrative procedure, (7) the introduction of new legal institutes, (8) the omission of unnecessary legal remedies and the introduction of new ones, (9) the competences given to the second instance authorities in the appeal procedure, intended to speed up procedure, (10) the introduction of the administrative contract, (11) the extension of the application of the Act to public service providers.

The new GAPA introduced terminology which had not been legally defined previously, such as public law authority (*javnopravno tijelo*) (Art. 1), administrative law (Art. 3/2) or direct resolution (*neposredno rješavanje*) (Art. 48). It also developed several new legal concepts, such as single administrative location (*jedinstveno upravno mjesto*) – one-stop shop (Art. 22); electronic communication (Art. 75), notification (*obavješćivanje*) (Part 2, Chapter 6); guarantee for acquiring a right (*jamstvo stjecanja prava*) (Art. 103), complaint (*prigovor*) (Art. 122), administrative contract (*upravni ugovor*) (Art. 150); notification on conditions for the acquiring and protection of rights (*obavješćivanje o uvjetima ostvarivanja i zaštite prava*) (Art. 155); protection from other forms of procedures by public law authorities (*zaštita od drugih oblika postupanja javnopravnih tijela*) (Art. 156), public service providers (Art. 3/3, 157, 158), etc.

Despite the fact that in the new GAPA language is simplified and the legal text reduced, in many ways empirical data show that “six interviewees out of ten recognize that the application of the GAPA requires a deeper understanding of this Act, particular on the part of those employed in the Ministries (74%)

and in Towns/Municipalities (55 %).” (IPA, 2012, p. 65). It is the reason why “all legal terms defined or introduced by the GAPA should be clarified and explained for training purposes.” (IPA, 2012, p. 65).

However, the new GAPA still contains many technical details. This is particularly the case with certain regulations regarding minutes (Art. 76), reconstruction of files (Art. 78.) and technical details of administrative acts (Art. 78–100). Also, some important new legal institutes are regulated in a very general manner, while traditional elements of administrative procedure are regulated in detail. This is particularly true of the first instance procedure, which is regulated in Parts Two and Three of the new Act, in comparison with new institutes introduced in Parts Six (the administrative contract) and Seven (legal protection from procedure by public law authorities and providers of public services).

This is probably the reason why so many civil servants included in the IPA survey considered legal uncertainty to be a critical aspect of the new GAPA (IPA, 2012). But at this point, differences in their ages and previous working experience in public administration played an important factor. Older, more experienced civil servants who had worked under the old Act preferred it to the new GAPA, while less experienced civil servants were readier to accept the new GAPA “estimating the opportunities for greater freedom in the implementation of certain provisions as good and stimulating” (IPA, 2012, p. 56). However, the IPA survey concluded that “the aims and principles of the new Act are not fully understood and respondents had a very limited knowledge of the novelties introduced” (IPA, 2012, p. 53). This clearly shows that administrative procedure is deeply rooted in administrative culture, and that the changes introduced were perceived differently by different categories of civil servants. The difference was most obvious between those who had worked under the old Act and recently employed civil servants.

Some legal institutes which were previously unknown in the Croatian administrative system have been introduced too cautiously. The most important are the new institute of the administrative contract, the principle of a single administrative location (*one-stop shop*) and the potential for using electronic means of communication in administrative procedure.

The new GAPA introduces several new general principles, such as proportionality (Art. 6), or access and data protection (Art. 11), while some principles (e.g. the right to legal remedy – Art. 12) have been expanded in order to cover other administrative actions such as administrative contracts, provision of public services or any other action by public authorities that affects rights, obligations or legal interests (Art. 156). Legal remedies have been rationalized and some new legal remedies (e.g. *prigovor* – complaint) have been introduced.

One of the novelties of the new GAPA is the legal regulation of the administrative contract. The administrative contract has been praised as a major innovation in the Croatian system of administrative law. Parliamentary debate clearly favoured the introduction of the administrative contract as a novelty in the Croatian legal system. Unfortunately, from an analysis of the articles dealing with the administrative contract, it is evident that this institute has been regulated in too restrictive a manner.

The administrative contract is covered by four articles dealing with the conditions for conclusion and the subject of the administrative contract (Art. 150), the nullity of administrative contracts (Art. 151), *clausulae rebus sic stantibus* (Art. 152), the termination of administrative contract (Art. 153) and complaints regarding the administrative contract (Art. 154).

The administrative contract should be one of the greatest novelties of the new administrative procedure, but it appears that no major breakthrough has been made (it can be concluded only a) between a public law authority and the party concerned, b) for the execution of a decision (administrative act), and c) if prescribed by a special law). Such a conception of the administrative contract allows only a very limited area of application, which is inconsistent with recent administrative developments and the submission of public administration under the principle of legality. Significant areas of administrative action, such as cooperation between authorities regarding the realization of joint development projects, the performance of many public services and other similar areas of cooperation, have remained outside the scope of the institute of the administrative contract.

Such an approach will eventually prevent this instrument from being used widely in administrative practice and serving as a major tool in public administration modernization. It can be used in only a few public administration activities, such as concessions, or public procurement. The question remains – what is the added value of such an approach?

3 The Problem of Special Administrative Procedures

A specific feature of the Croatian public administration system is the existence of more than a hundred special administrative procedures (Ljubanović, 2010, 2006).

Special administrative procedures are scattered throughout various acts that, alongside material provisions, often contain many procedural provisions too. There are also many procedural provisions in secondary legislation prepared for the implementation of these acts. Sometimes, astonishingly, this secondary legislation is produced without a proper legal foundation containing provisions that create new procedural provisions, instead of regulating existing institutes only when necessary (Ljubanović, 2006; Šimunec, 2011, p. 15).

Special procedures often contain procedural provisions that are identical to the old GAPA. However, the main problem with these provisions is not that they were copied from the old Act, but that they sometimes contradict the provisions of the new GAPA. This is why these provisions should be amended and – if copied word for word from the old Act – deleted completely. Special laws should contain general clauses indicating the new GAPA as the main procedural law for administrative matters in most administrative fields.

Such practice has resulted in a huge body of procedural legal provisions which are cumbersome for civil servants and the ordinary public. It has also contributed to the development of a mentality among civil servants which fosters excessive bureaucratization. Finally, the situation has created legal uncertainty and confusion, resulting in the erosion of the relevance of general administrative procedure and weakening the rule of law.

The provision of Art. 3/1 of the new GAPA stipulates that special laws may regulate procedural issues differently from the current Act. This refers only to particular issues; if necessary for proceedings in particular administrative areas; and if not contrary to the basic provisions and purpose of the GAPA. Such exceptions may arise only from the Act, never from secondary legislation.

The new GAPA contains around 40 provisions allowing for special procedures to regulate some existing procedural situations differently than the current Act. The IPA survey shows that more than two-thirds (67 %) of the respondents applied the GAPA only as a secondary procedural law when deciding in administrative matters. Only 33 % of respondents applied it as a primary procedural law (IPA, 2012, p. 64). This raises the very important issue of special procedures and their harmonization with the new GAPA.

In October 2010, the Croatian Government adopted a Conclusion (*zaključak*) requiring line ministries and other administrative bodies to prepare amendments of special laws in order to align them with the new GAPA. In the context of Croatia – EU negotiations under Chapter 23 – Judiciary and fundamental rights, one of the ten benchmarks established was the adoption and harmonization of legislation necessary for the full implementation of the new GAPA, particularly in connection with the need to align special administrative procedures with the new GAPA (Šimunec, 2011, 2011a)³.

During 2011 and 2012, many special laws were adopted that were already aligned with the new GAPA. The Croatian Parliament adopted laws containing and/or amending special procedures and harmonizing them with the new GAPA. Only few special laws remain unaligned with the new GAPA. According to the annual report of the Ministry of Administration for the 2012, 105 special laws have been aligned with the new GAPA (MA, 2013: 52). Despite

³ With bilateral assistance from the Kingdom of Denmark, the project "Preparation for the implementation of the new GAPA" has been realized. The report analyzed existing special procedures and identified discrepancies in the new GAPA in this respect.

this, almost half (49 %) of the IPA survey respondents stated that special laws in their particular administrative areas had not been aligned with the new GAPA, making application more difficult (IPA 2012, p. 54).

Special emphasis should be placed on the issue of special procedures in the process of implementing the new GAPA. This relates to situations in which the new GAPA allows for special procedures to regulate certain issues differently. Public bodies should be given clear instructions on when, how and to what extent, certain procedural steps should be regulated differently than under the present Act. This should help to sustain the alignment of the whole administrative procedural system, in which the new GAPA should have a central place⁴.

4 Correlation with EU Law

Some of the solutions in the new GAPA should be correlated with efforts to achieve administrative simplification in EU law. A significant step towards administrative simplification was made in 2006, with the adoption of the Directive on Services in the Internal Market (Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market). Member countries were given three years to implement it in national legislation, i.e. until the end of 2009. The main objective of the Directive was to launch a project to build a single EU market at a higher level.

Besides contributing to building a single market in services within the EU, the Directive has had a significant impact on the administrative procedures of administrative authorities in the Member States. Among other things, the Directive obliges member states to review procedures and other formalities relating to accessing and performing specific activities in the services sector. It is particularly concerned with their simplification, if they are not simple enough for the parties (Art. 5/1 of the Directive). It stresses the obligation of accepting documents that confirm compliance with certain standards issued in other Member States and the exceptions to this principle (Art. 5/2, 3). However, there are also several key institutes of administrative simplification, which directly affect administrative procedures in EU member states. These are the point of single contact, administrative procedure by means of electronic communication between government and citizens, the legal consequences of "administrative silence" and administrative cooperation between Member States. The goal of the new GAPA is not to transpose the Directive into the Croatian legal system, but to use some of the institutes mentioned as potential reform tools for general administrative procedure.

4 The question still remains as to whether special procedures should be rigorously abolished, or allowed only when are really necessary, or whether special laws should be only aligned with the new GAPA. The latter case would perpetuate a situation with many special procedures that would probably undermine the position of the GAPA as the main procedural law in Croatian public administration.

Through the creation of a legal basis for the establishment of points of single contact (Art. 6 and 7), the Directive implements the one-stop-shop principle. This should help to accomplish several aims. On the one hand, legal entities and individuals should be able to exercise their rights more easily and quickly, while, on the other, mechanisms of internal administrative connectivity and better coordination of public authorities will be enabled (Art. 7).

Through the provision of the single administrative location (Art. 22) the new GAPA has also created the prerequisites for the one-stop-shop principle. Unlike the Directive, the provisions of the new GAPA are quite general, and their realization requires strong and decisive administrative leadership to ensure the establishment and effective operation of new organizational units in different government agencies. Otherwise, there is a real danger that the provisions of the single administrative location remain a dead letter. There is no evidence that the single administrative location has been established in many administrative fields. The general public seems to be completely unaware that such service even exists in the Croatian legal system.

The Directive promotes heavily the concept of conducting administrative procedure by means of electronic communication (procedures by electronic means) when it comes to registration and authorization processes and similar activities (Art. 8 of the Directive). It contributes to the realization of the concept of e-government based on the wide usage of IT in the daily work of public administration. It should allow the provision of a wide range of "long-distance" administrative services, i.e. without needing to appear in person public, or even send documents by regular mail. In accordance with Article 8 of the Directive, electronic communication should cover the entire process, from the initial application to the issuance of a decision.

The new GAPA contains provisions on electronic communication, but they are confined to specific legislation on electronic documents and electronic signatures. This may limit the use of electronic means of communication for the vast majority of clients (citizens) who do not yet have the technical means for publishing documents electronically and adding an electronic signature. However, for most clients, the legal nature (if any!) of messages sent to public authorities electronically (i.e. ordinary e-mails) is still unclear. Could the new GAPA have regulated the use of ordinary e-mail addresses in administrative procedure? Might it have been possible to regulate the introduction of public authority e-mail addresses for the conduct of certain types of administrative proceedings (e.g. direct resolution – Art. 48)? This is even more important if one takes into consideration the fact that the use of IT in administrative

procedure was designated by the majority of IPA survey participants (54 %, across all sectors) as the most interesting topic (IPA, 2012, p. 60)⁵.

5 Impact on Public Administration in Croatia

The analysis of the new GAPA and available empirical data on its implementation raise the question of the main achievements of the new act. Does the new GAPA contain a modernizing potential that should provide a basis not only for the reform of administrative procedures as such, but for the overall reform of public administration functions, based on a newer, or more modern understanding of public administration? According to the historical institutionalism approach, in order to change administrative behaviour, reforms must be strong enough to change extremely long traditions in administrative procedure.

Despite the improvements and novelties introduced, the new GAPA can be to a significant extent considered as an expression of the traditional approach to public administration, and this is one of the main reasons why significant change has not been achieved. Traditional elements have prevailed thus creating a strong foundation for continuity in administrative practice, despite some changes. It confirms that institutions transcend individuals, are very stable over long periods and may be used to predict the behaviour of those involved as well as restrain their behaviour (Peters, 1999, p. 22).

It is not surprising that, although 44 % of the IPA survey respondents found administrative procedure after the new GAPA entered into force simpler, while 23 % considered it faster, an enormous number of civil servants interviewed (62 %) said that the introduction of the new GAPA had not affected their everyday work (IPA, 2012, p. 64).

The main reason for the limited modernization potential of the new GAPA lies outside the legal text itself. It is probably due to a lack of awareness-building and training activities. The old GAPA was in force for over fifty years, so it is vitally important to the successful implementation of the new Act to raise awareness regarding the changes it introduces, and to train civil servants to work according to the new Act. The line ministry has failed in this regard and it should come as no surprise that more than a third of the civil servants surveyed (32 %) did not “understand the meaning of the new Act and why it is not formally defined like the old one” (IPA, 2012, p. 53). Also, 31 % of the civil servants interviewed thought the new Act should retain links to the old

5 Other interesting topics for the survey participants were new principles introduced (40 %), regulation of the appeal procedure (38 %), complaint as a new legal remedy (38 %), administrative contract (32 %), appeal as a remedy (29 %), the prerequisite for adopting a party's request (28 %), citizens' complaints about the procedure of public service providers (26 %), the jurisdiction of the appellate authority in the appeal process according to the new GAPA (25 %), notifying citizens on the conditions for the acquisition and protection of rights (20 %), and guarantees for the acquisition of rights (14 %) (IPA, 2012, p. 61, 62).

GAPA, and many of them admitted to continuing to rely on the old Act when interpreting certain legal institutes⁶.

The respondents to the IPA survey identified several major obstacles to the efficient implementation of the new GAPA. Some lie outside the legal text, such as an administrative culture characterized by non-responsiveness to citizens, the working context, e.g. "relating to superiors, workloads unequally shared between departments and organizational units, the lack of material and non-material incentives" (IPA, 2012, p. 54). Finally, the lack of professional support, in the sense of senior advisors who would instruct and guide junior civil servants, and the low availability of high quality commentaries on the new Act, were identified as important obstacles to the implementation of the GAPA (p. 54).

All in all, reform which is mainly based on the old Act is probably acceptable from the point of compliance with current administrative development and dominant legal tradition. It is also a quite pragmatic approach, bearing in mind the need to ensure the smooth adjustment of public law bodies in implementing the new Act, but it is doubtful whether such an approach leads to real changes in the everyday work of public administration.

It is evident that the new GAPA contains a number of novelties, nomotechnical improvements as well as simpler, more clearly structured text. However, in terms of its structure, the new GAPA relies to a large extent on the old Act, which is a significant mitigating circumstance for administrative authorities expected to apply the new Act. New institutes have been regulated, and the number of legal remedies simplified and reduced, while legal protection has been extended to a large number of administrative activities. It is expected that this will stimulate the modernization potential of the new Act. Whether this potential will be realized depends on factors beyond the legal text, particularly the willingness of political and administrative staff to modernize public administration and initiate the necessary changes in the system of everyday administrative work and conduct.

As a result, certain parts of public administration are likely to continue previous practice, which has not always produced the best results. It is realistic to conclude that the reform of the GAPA in 2009 did not have the necessary and desirable modernization potential, which should be one of the incentives of serious, comprehensive public administration reform. The impression remains that the legislator did not take into account sufficiently modern tendencies of administrative development that are particularly important for the daily conduct of public authorities, and therefore generally followed the spirit of the old Act formed in the mid-twentieth century. Also, the competent line

⁶ "The impact of the new Act on administrative procedure implementation is difficult to quantify, because in almost all legal areas the new GAPA has resulted in only slight changes. Civil servants continue to apply primarily substantive laws and in some places still use the old GAPA." (IPA, 2012a, p. 6).

ministry (Ministry of Administration) failed to prepare a coherent succession strategy from the old to the new GAPA, which, if it had existed, would have been more than valuable, especially in the context of the deep roots of the old Act in Croatia's administrative culture.

Excessive formalism will probably still remain a characteristic of administrative procedures, which will very likely continue to be copies of court procedures. This emerges as a straightforward conclusion from the IPA survey, according to which many civil servants who participated in the focus groups "pointed out that they were unsatisfied with the new GAPA, because it was less formally defined than the old one. The opportunity to interpret the Act in a more flexible way is frightening and gives them a sense of greater responsibility." (IPA, 2012a, p. 6).

To some extent, the new service-oriented and citizen-oriented concept of public administration has been pushed into the background. The general understanding of public administration is still too focused on unilateral, authoritative decision-making, rather than collaborative, service-oriented public administration, which encourages partnership, but which is sometimes subsumed in contractual relations, especially among public bodies.

Finally, along with the special observations and recommendations in this paper, there are others which can be made regarding the future implementation of the new GAPA. Since the new GAPA takes the old Croatian GAPA as its role model while attempting to incorporate some new solutions, it is important to train civil servants to understand the new logic behind these new institutes. There is a real danger that the situation will remain largely unchanged if old attitudes are perpetuated under the new Act. This may undermine the novelties introduced in the new GAPA and result in the same administrative practice as before. Civil servants should be trained in the spirit of serving public interest, while respecting the position of all parties in administrative procedure.

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POVZETEK

1.02 Pregledni znanstveni članek

Novo vino v starih mehovih: splošni upravni postopek in reforma javne uprave na Hrvaškem

Ključne besede: splošni upravni postopek, Hrvaška, modernizacija javne uprave, upravno pravo, institucionalna teorija, historični institucionalizem

Leta 2009 je Hrvaška sprejela nov zakon o splošnem upravnem postopku (ZUP), ki je uvedel nekaj novosti pri urejanju splošnega upravnega postopka. Glavna raziskovalna tema obravnava spremembe, ki jih je prinesel novi ZUP kot spodbuda za reformo javne uprave na Hrvaškem. Empirični podatki so bili zbrani v okviru projekta IPA »Podpora za izvajanje zakona o splošnem upravnem postopku« (2012–2013), ki je bil financiran s sredstvi EU in interpretiran na osnovi institucionalne teorije. Kljub zakonskim spremembam empirični podatki kažejo, da novi ZUP ni prinesel dejanskih sprememb v vsakdanjem delu javne uprave.

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