

PROJECT

**South-Eastern European developments on the administrative convergence
and enlargement of the European Administrative Space in Balkan States**

STAGE 1. Thematic research report (*first draft*)

**"General framework of administrative convergence provided by
Croatian public administrative reforms"**

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“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)¹ and European System of National Accounts (ESA 1995).

In this context, the public sector includes:

- General Government

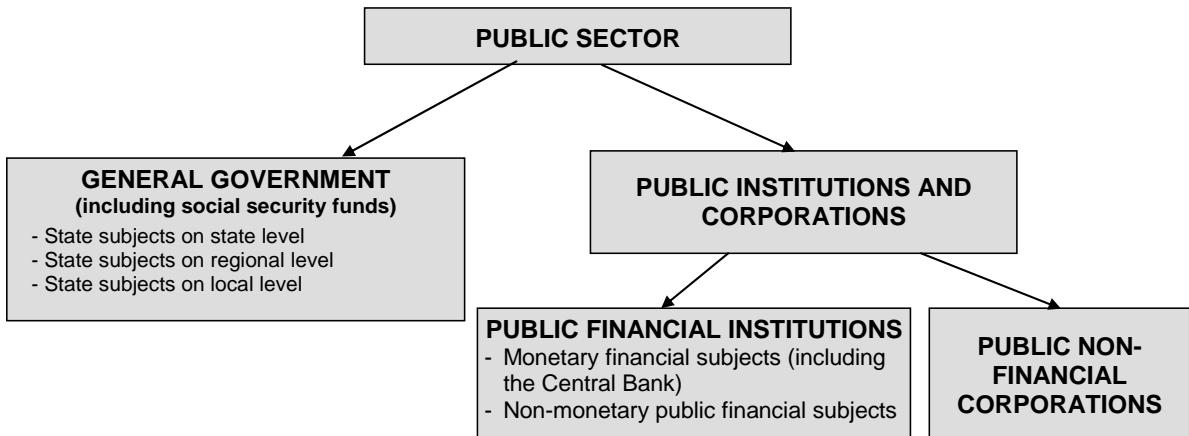
¹ Government Finance Statistics (GFS) is a statistical system developed by International Monetary Fund. Its goal is to create a quality information support to economical analyses of general government, i.e. the public sector as a whole.

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.

- Public non-financial and financial corporations and quasi-corporations.²



Scheme 1 - Public sector according to the GFS³

Therefore, the aggregation of all public corporations, quasi-corporations and general government units are known as the public sector.

The **general government** consists of:⁴

- 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),

² 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.

³ Public sector according to the *GFS Manual 2001*, IMF, p. 22.

⁴ 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.

- 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:⁵

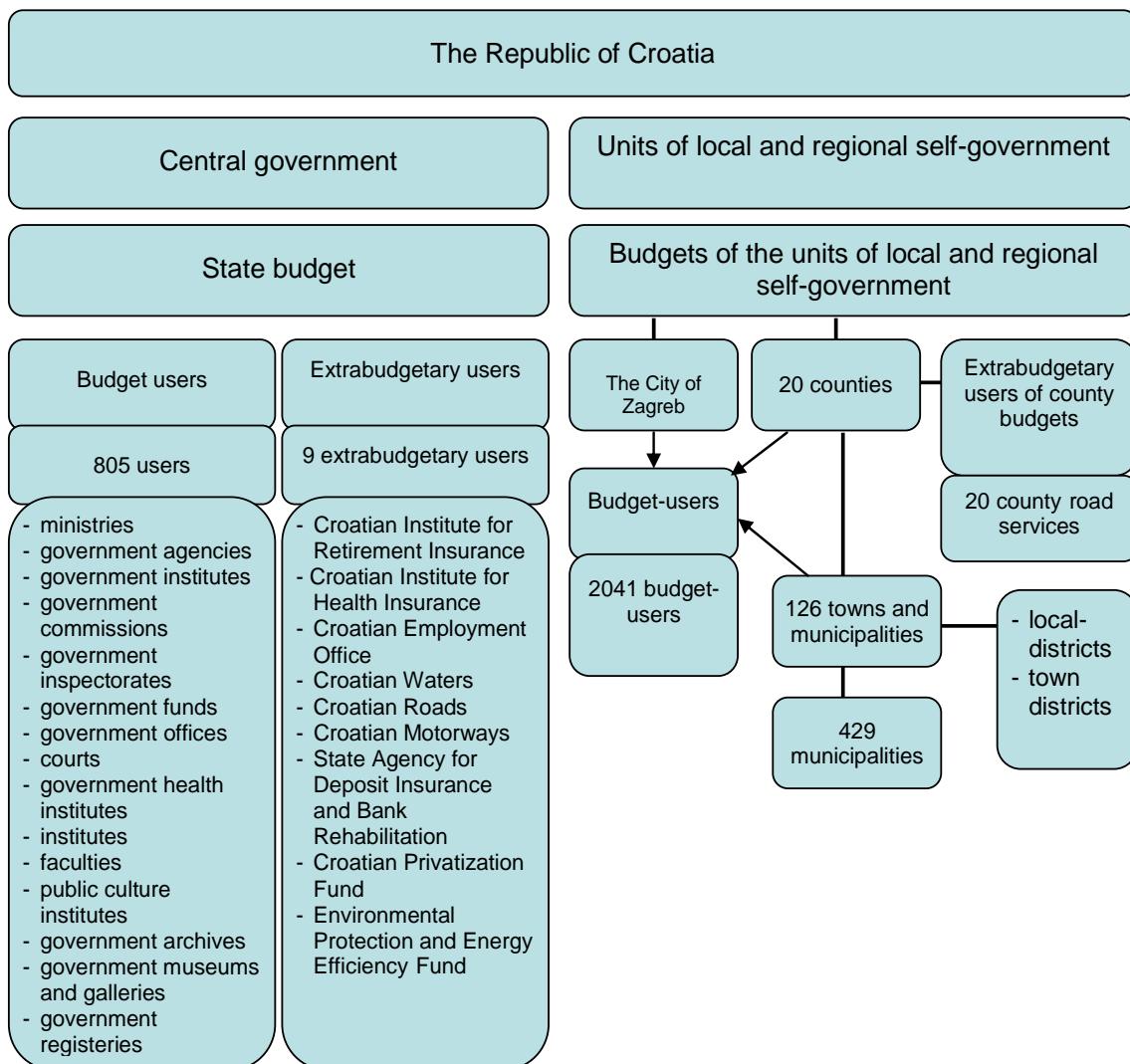
- non-financial public corporations (all residential non-financial corporations under state unit control),
- non-monetary financial public corporations (all residential financial corporations under general government unit control except public depositary corporations),
- non-monetary public companies (non-financial public corporations and non-monetary financial public corporations),
- 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.

⁵ cf. op. cit. GFS 2001, Chapter 2, Article 54.

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 Administration⁶, the Law on the Croatian Government⁷, the Law on the Organization of Ministries and State Administration Bodies⁸, the Regulation on Principles for the internal organization of state administration bodies⁹ and the Budget Law¹⁰ 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.

⁶ Official gazette, 190/03., 199/03., 79/07.

⁷ Official gazette, 101/98, 15/00. i 117/01., 199/03., 30/04., 77/09.

⁸ 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.

⁹ Official gazette, 43/01., 08/04., 131/06., 91/07.

¹⁰ Official gazette, 87/08.

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).

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,

13. Veterans' Affairs and Intergenerational Solidarity
14. Ministry of Regional Development, Forestry and Water Management
15. Ministry of Tourism
16. 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 co-signature of the President of the Croatian Parliament. The Government Cabinet consists of Prime Minister and Vice-Ministers and the Prime Minister's Office performs professional and administrative work for the President and according to his orders. The work of the Office is governed by the Head of the office in the position of state secretary appointed by the Government of Croatia based on the proposal of Prime Minister of the Government of the Republic of Croatia.

The government is working on sessions that are public, but also the Government may decide that a meeting or discussion about particular items is conducted without public attendance. The government can sit if the majority of the members of the Government 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 carried 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,
7. 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 it 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 Croatia¹¹, 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 Administration¹², i.e. the Act on Local

¹¹ 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

¹² Official Gazette, Nos. 90/92, 94/93, 117/93, 5/97, 17/99, 128/99, 51/00 and 105/00

and Regional Self-Government¹³. Namely, the Law ratifying the European Charter on Local Self-Government adopted the principles of the European constitution of local self-government (Official Gazette MU No. 14/97 which entered into force on October 17, 1997) and was followed by the Act on Local and Regional Self-Government by which these principles were incorporated into the system of local self-government in the Republic of Croatia (Sarvan 2007).

The right of citizens to local and regional self-government is guaranteed by the Constitution of the Republic of Croatia¹⁴. 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,

¹³ Official Gazette, Nos. 90/92, 94/93, 117/93, 5/97, 17/99, 128/99, 51/00 and 105/00

¹⁴ Official Gazette, No. 56/90

education and elementary schools, culture, physical education and sports, customer protection, protection and improvement of the environment, fire protection and civil defense.

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

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

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

In conformity with the Act on Counties, Cities and Municipalities in the Republic of

Croatia, in the republic of Croatia there are:

- **429 municipalities,**

- **126 towns,**

- **20 counties and**

- **the City of Zagreb.**

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

These legal entities perform the activities in conformity to special regulations set by the mentioned Act on Local and Regional Self- Government, the Budget Act¹⁵ as well as general acts (lex generali) that regulate the system of local self-government in the Republic of Croatia.¹⁶

¹⁵ Official Gazette No. 87/08

¹⁶ 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).

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 communautaire*, 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.

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 proceeding¹⁷, and giving insights into international experience in the reform of administrative proceedings.

To reduce the percentage of administrative acts abolished in second-instance proceedings due to the violation of rules of procedure, special attention is paid to the education of the 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.

¹⁷ 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 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).

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 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 communautaire*, offering a wide range 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.¹⁸

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

¹⁸ European Commission, Welcome to the world of PIFC, EU Publications Office, 2006

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.¹⁹

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 Act²⁰, 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 passed²¹, 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 establishment and development, and performance of particular forms of internal controls

¹⁹ www.mfin.hr

²⁰ Official Gazzette 96/03

²¹ Official Gazzette 141/06

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.²² 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 Act²³ 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.

²² 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

²³ Official Gazzette 141/06

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 users²⁴ 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 Auditors²⁵, laying down the principles and rules to be adhered to by internal auditors in the performance of their duties.

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 Act²⁶ was adopted in July 2008 which excluded the provisions on internal audit. Furthermore, the new Ordinance on budgetary control²⁷ 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

²⁴ Official Gazzette 35/08

²⁵ Official Gazzette 18/08

²⁶ Official Gazzette 87/08

²⁷ Official Gazzette 20/09

not, as it has been the practice until now, pursuant to the adopted control plans.²⁸

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 in 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.

²⁸ 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 from 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 EUROSACI 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 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)²⁹, the above mentioned documents and Prague Declaration³⁰.

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 units³¹, 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.³²

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.

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

²⁹ Official Gazzette 70/93, 48/95, 105/99, 36/01, 44/01 and 177/04

³⁰ 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))

³¹ Because of clarification, the main characteristics of the budget system of the Republic of Croatia are given in the Annex 1.

³² By mid-2001, mandate of the Office was broadened by entrusting transformation and privatisation audit to the State Audit Office.

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.³³

The Office is managed by Auditor General assisted by a deputy and assistants who support

³³ 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.

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.

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 communautaire* , which entails major changes in a number of areas.

The accession partnership which includes the commitments undertaken by each Candidate

Country, cover a wide range 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 regulation. 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.³⁴

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

³⁴ Models of Public Budgeting and Accounting Reform, OECD Journal on Budgeting 2002, Budgetary and Financial Management Reform in Central and Eastern Europe, Richard Allen, page 82

Croatian public finance system and budget management in the course of accession process and adoption of the European Union practices.

1. PREPARATION FOR THE MANAGEMENT AND IMPLEMENTATION OF EUROPEAN FUNDS

Pre-accession assistance programmes³⁵ 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 Regulation³⁶ (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

³⁵ 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

³⁶ 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)

by the Law on public internal financial control system³⁷.

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)³⁸.

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

³⁷ Official Gazette 141/2006

³⁸ In September 2004 the Government of the Republic of Croatia adopted the first PIFC Strategy. In the same year the Memorandum of understanding on administrative cooperation between the Ministry of Finance and the EC Directorate General for Budget was concluded.

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 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. State Audit Office, State Attorney Office or courts.

Bodies using and managing EU assistance funds have manuals which contain provisions on code of conduct and ethics of employees, arising from the above mentioned Acts and Code of Ethics. In these bodies all employees are obliged, immediately after commencement of employment, to sign the Declaration of Confidentiality and Impartiality.

The European Commission auditors have particularly addressed to the issues regarding the actual functioning of the system: starting with cases of reporting and manners of dealing with non-ethical behaviour up to the trainings on ethics which need to be constantly organised for all employees and which should present a compulsory part of the induction trainings for newcomers.

Although from a legislative point of view we have a well-defined system regarding ethics and integrity, it was exactly the accreditation process, i.e. the course of receiving work permit in bodies dealing with the implementation of pre-accession assistance programmes, that indicated the elements in this area which still need to be further built and enhanced in the overall state administration.

- **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 Finance³⁹.

On the other side, in December 2006 the Law on public internal financial control system was adopted. The Article 36 of the Law prescribes the obligation of a head of a body to set up a system for preventing the risks of irregularities and fraud and to undertake activities against irregularities and fraud. The obligation of appointing the irregularity officer who will receive notifications on irregularities and suspicions of fraud or who will independently undertake activities against irregularities or fraud is introduced. As opposed to the system of managing EU pre-accession funds, in this national part the process of irregularity management and reporting has not been described, therefore it is crucial to define the future role of irregularity officers.

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 AFCOS⁴⁰ 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

³⁹ 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.

⁴⁰ The system for combating fraud and corruption.

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;
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 Act⁴¹ some important novelties were introduced in the processes of planning and executing, which enable

⁴¹ New Budget Act was published in the summer of 2008 (OG 87/08), and entered into force on 1 January 2009.

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 levels⁴² 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 Union⁴³.

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-

⁴² Programmes consist of measures, measures consist of priorities and priorities consist of projects.

⁴³ Financial Perspective lasts for seven years, and the implementation of the Financial Perspective 2007-2013 is ongoing.

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 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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