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DEMOCRACY AND THE RULE OF LAW

Actions during the period under review continued to focus on economic recovery and completing EU accession negotiations. Despite weak and continuously declining public support, the government (a coalition) is planning to complete EU accession negotiations in 2011. This goal will continue to be the main binding force and will be a source of political stability. The government is currently under pressure to set a date for the parliamentary elections (to be held before the end of 2011).

In its 2011 budget proposal, the government is not aiming to narrow the deficit from the level it reached in 2010. The government is concerned that spending cuts would hinder economic recovery and does not want to risk damaging further its already low level of popularity ahead of the parliamentary election expected in 2011.

The government has also indicated the need for public sector reforms to put its finances on a more sustainable footing, and signalled its intention to do this in an economic recovery programme outlined in April 2010. The implementation of this plan has so far been limited.

Considering the close prospect of accession, its administrative actions must be more and more judged against the level required for being a member (rather than for becoming one). Chapter 23 negotiations remain the main point of attention.

Democracy

The handling of the numerous governmental crises as well election preparations confirm that democratic processes are well embedded in Croatia's political system. Although horizontal governance management systems remain insufficiently robust, a number of actions aimed at strengthening all three branches of government show positive developments. It remains to be seen whether this will translate into an effective transformation of the governance system.

The law on political financing has largely improved the former regulations but there are still some inconsistencies and loopholes which will need to be closely monitored and addressed in future revisions.

Rule of law

The legal framework still suffers from a persistent formalistic and detailed approach, which reduces management effectiveness, increases costs for the administration and citizens, and creates legal loopholes which require continuous amendments. This in turn weakens society's respect for the law.

The main reasons for the insufficient quality of the legislation include: deficient law-drafting capacity in ministries and administrative bodies; inadequate consultation with regulated communities; an excessively ambitious legislative agenda; inadequate attention to implementation issues during the drafting phase; and constrained potential for parliament to scrutinise government proposals adequately.

Respect for the rule of law (i.e. a set of principles that require a separation of powers between the judicial, executive and legislative branches of government, compliance with the law by government, individuals and economic operators, the proper functioning of the judiciary and the consistent application of fair procedures by the administration) remains a source of concern and needs to be continuously scrutinised.

Constitution

In mid-June 2010 the Croatian Parliament approved changes to the country's Constitution enabling, among others, it to finalise its EU accession negotiations. The changes cover a variety of areas, including the voting rights of Croats in the diaspora.

An important amendment is related to the eased conditions for a referendum on joining the EU, which will now require the votes of a majority of voters in the referendum instead of a majority of registered voters. Another change to the Constitution should eventually allow Croatia to extradite its own citizens to the judicial authorities of other states based on international agreements.

Other changes to the country's Constitution include adjustments to the preamble, which now includes the names of the country's 22 national minorities.

Constitutional Court judges will be chosen by the two-thirds majority and the courts will have the authority to directly implement EU law.

The changes also ensure the full independence of the Croatian Central Bank and the State Audit Office.

Parliament

In the past two years, the parliament has been very active in passing a series of laws and other documents, some of them related to the fight against corruption. There has been an overproduction of laws: 400 laws were passed in 2008, 500 in 2009 and 300 in 2010, meaning a total of 1,200 laws in three years, an average of three a day. Although much of this legislative overproduction has to do with the accession process and the need to transpose the various provisions of the EU *acquis*, part results from the lack of legislative planning and poor consultation mechanisms, which means that constant amendments to the existing laws could be avoided if these were to be reviewed together with other laws in the first place and properly discussed with the relevant stakeholders.

The "urgent procedure" is abused and is not just affecting negatively law making: it is also lowering the quality of laws other than limiting consultation procedures.

Government

The government's reaction to the recession will continue to constrain governance reform. Current public administration reform efforts seem to be only weakly supported and their scope is too limited relative to the challenges being faced.

The formal quality of legislation seems to be appropriately ensured through the actions of the Office of Legislation, which also plays a role in strengthening law-drafting capacities in ministries and other state administration bodies. However, besides the general weakness of the legal framework, consultations with

potentially affected parties during the law-making process and the timely and adequate assessment of the potential impacts (fiscal, economic, social and environmental) of draft laws and regulations submitted to the government is unsatisfactory.

The Ministry of Foreign Affairs and European Integration (MFAEI) manages European Integration (EI). It has two directorates: the Directorate for Support to Croatia's EU Accession Process and the Directorate for Co-ordination and Monitoring of Adaptation to the EU Legal System and Monitoring of Implementation of the Stabilisation and Association Agreement. There is also an Office of the Chief Negotiator in that ministry. These directorates and the Office of the Chief Negotiator report to the State Secretary for European Integration and form a rather autonomous structure within MFAEI.

Public administration

Expectations regarding sound improvements in the performance of the public administration during the last year were not confirmed. In fact, the General Administrative Procedures Act (GAPA) is being implemented without visible enthusiasm nor effectiveness and the capacity of the Ministry of Public Administration (MPA) for leading the reform remains to be established. Current budgetary constraints are having a negative impact in channelling the resources required for increasing the quality and performance of public services, both at the central level and across the public administration, but more consistent activity and better results were expected. The organisation of the administration therefore remains complex and fragmented, procedures continue to be complicated and formalistic, and decision making is still highly centralised and politicised.

The establishment of the National School for Public Administration (NSPA) may help support important changes in the administrative culture and in the professional skills of civil servants, especially those related to management capacity. For this purpose, the MPA should ensure that PAR priorities and the activity of the NSPA are clearly aligned and that sufficient resources are made available.

Important reforms in both public expenditure management (PEM) through the Treasury Strategy and public internal financial control (PIFC) through the PIFC Strategy are being implemented consistently. The main challenge will be the development of managerial accountability and in turn effective financial management. The establishment of effective accountability structures with the delegation of authority by the head the organisation, complemented by an effective financial management function, will be an essential complement to the implementation of programme budgeting. Without that programme budgeting will not have the impact on the effective and efficient delivery of public services it is assumed to have.

Judiciary

The new legal framework aimed at increasing the independence of the judiciary is almost completed and is being gradually implemented. The 2010 constitutional amendments also paved the way towards a more reliable justice system. The effectiveness of the judicial system is also steadily increasing. The backlog of civil and criminal cases is being reduced. The investigation capacity related to criminal cases is improving as well. It is expected that administrative justice reforms planned to enter into force in January 2012 will contribute to reinforcing this positive change.

The new model for appointing and managing judges has just started and is facing some difficulties related to the still weak capacity of the new State Judicial Council (SJC) and also due to some problems

inherited from the past. In addition it is recognised that for being sustainable, reforms in the judiciary require additional resources which are not easy to obtain in the current situation of Croatia. Therefore, clear priorities must be established.

Anti-corruption

Intense legal activity has been carried out for improving transparency and ethics in the public administration. In spite of some remaining weaknesses, the recently adopted legislation related to conflict of interests and funding of political parties and electoral campaigns represents relevant improvements in this field. It remains to be seen if implementation will confirm this assessment.

The anti-corruption policy and strategy are largely influenced by the EU accession process and its sustainability raises some concerns.

From the repression side, it seems that there is the will of tackling corruption and organized crime at all levels and thus contributing for increasing the rule of law in the country. In this area, commitment and cooperation at international level is also increasing. The new arrangements that includes the USKOK, the PNUSKOK and specialized departments in criminal courts, along with the new Criminal Procedures Act – which is being implemented in an experimental basis by the USKOK – seems to be a good solution.

From the preventive side, results are less visible. No proper communication policy – which is essential for preventing corruption – exists and more commitment and resources are needed to succeed. Monitoring and evaluation methods and skills also need to be developed.

Recommendations

1. Efforts for improving the integrity system and fighting corruption need to be strengthened and consolidated in the coming years since ownership in this field is still a matter of concern. For this purpose, monitoring and evaluation methods must be developed. It is advisable to put in place a special EU mechanism for monitoring Croatia's performance in this regard during the coming years.
2. The role of the media, business associations and civil society organisations must be strengthened and supported since they are relevant partners for keeping governance reforms high on the political agenda and for making the political institutions and the public administration accountable and responsive.

CIVIL SERVICE AND ADMINISTRATIVE LAW

Main Developments since the Last Assessment (May 2010)

The internal pressure to better control public expenditure and the perspective of closing the negotiations related to EU accession intensified legislative activity in Croatia during the period under review.

In June 2010, the Parliament approved relevant constitutional amendments which are mainly related to the completion of the EU accession process. This is the fourth time since 1990 that the constitution is amended. The 2010 amendments facilitate holding the referendum on joining the EU, allow for further strengthening judicial independence, and facilitate direct application of EU laws by local courts. Another novelty is that the election of Constitutional Court judges will require a two-thirds majority in Parliament, instead of a simple majority. Also relevant are changes allowing Croatia to extradite its citizens to other countries to stand trial for crimes.

As part of the preparations for the implementation of the Law on Administrative Disputes, which will come into force in January 2012, the Law on Organisation of Courts was amended and the Law on Areas and Seats of the Courts was adopted. It was decided that, for the implementation of the two-tier administrative justice system, first-instance administrative courts would be established in Zagreb, Split, Rijeka and Osijek, and the High Administrative Court in Zagreb. Concerns were expressed with regard to the lack of information on this preparatory work, suggesting that the limited resources were slowing down the whole process.

A new Law on the Right of Access to Information was adopted but subsequently, at the request of some NGOs, the Constitutional Court ruled that the law was unconstitutional because it had not been adopted by a qualified majority. In fact, since the right of access to public information was recently recognised as a constitutional right, an organic law is needed for its regulation, which clearly requires a qualified majority in parliament. This issue was raised during the preparation of the law, but the majority did not take due consideration of this warning (or of other proposals of the working group).

New laws related to the financing of political parties and electoral campaigns and to the prevention of conflicts of interests were adopted by parliament on 11 February 2011. These laws represent a relevant improvement of the legal framework, although some issues, mainly related to the effectiveness of the control mechanisms and the implementation of the laws, require further attention.

The Law on Free Legal Aid has also been adopted, which is expected to contribute to a better access to justice. In particular, complementarity with the system provided by the Bar Association should be ensured.

Decentralisation has not developed, in spite of high expectations and some initiatives and documents. For instance, the government adopted the Guidelines and Principles for Functional Decentralisation and Territorial Restructuring, and a working group was created for decentralisation and territorial restructuring. However, this group met only once and no relevant results were obtained. The perception is that due to the economic crisis and the upcoming electoral period the government is not really interested in taking risks in this domain. The government also adopted a special decree relating to the financing of decentralised functions (functions that have been transferred to local and regional governments), establishing rules for the central budget financing of these transferred functions. It remains to be seen whether this decree will have any practical consequences, as regional and local self-governments have so far not received any resources for implementing their increased responsibilities.

For the time being, the Law on General Administrative Procedure (LGAP) has not had the expected impact on the functioning of the administration, the improvement of citizens' rights, and the reduction of the business burden. Due to the lack of capacity and resources of the Ministry of Public Administration (MPA), as well as its poor political visibility and co-ordination, only a small amount of training was delivered and no information campaigns were launched. The necessary review of existing special procedures, together with the abrogation of many of these procedures, is in a very initial phase.

No improvements have been observed in other areas that were identified as problematic in previous assessments. This is the case, for example, of the organisation of the public administration (a law on public agencies was mentioned as a possibility, but apparently no activity has been undertaken in this area).

The review of the State Administration Reform Strategy (SARS) was announced, but no developments were observed. A report assessing the implementation of the current SARS between March 2008 and June 2010 has been prepared. Its overall conclusion is that "implementation of the Strategy was satisfactory". However, the report is rather descriptive and provides little data. The National Strategic Reference Framework under preparation has not yet been completed, and its elaboration has proved to be difficult.

In December 2010 the government established the National School for Public Administration, with the main purpose of serving as an instrument for the in-service training of civil servants in the state administration, local and regional self-governments and public services. The provisional director and the governing board of the School have been appointed. Its statute has not yet been adopted, and several unanswered questions remain, for instance regarding its accountability to the MPA, its funding, and its compatibility with the Training Centre within the MPA.

The Law on the Register of Employees in the Public Sector was adopted on 11 March 2011, thereby establishing the legal basis for the creation of the register (which will not include employees in local and regional self-governments).

The draft Law on Salaries of Civil Servants is still being prepared by the working group created for that purpose. Preparing a new salary system within severe budgetary constraints, as it is the case of Croatia, is a difficult task. Croatia needs to raise the salaries of civil servants in order to increase motivation and reduce turnover, but at the same time resources are scarce. The approach put forward for solving this dilemma is to reduce staff in order to create savings that can be used for increasing salaries. This approach makes sense because it links productivity to salaries. However, it remains to be seen whether it will produce sufficient results. Non-monetary incentives must also be developed and put

in practice. A change of management style (centralised, formalistic, and opaque) should be explored as one option.

Amendments to the Law on Civil Servants were being discussed at the time of the assessment mission. The aims of the amendments are to harmonise the law with the LGAP, resolve some terminology inconsistencies, reinforce the role of the MPA in controlling the implementation of the law, increase mobility, and facilitate dismissals of civil servants due to their unprofessional or inefficient conduct. With regard to these dismissals, according to the amendment to the law a civil servant is to be immediately dismissed after two written warnings from the manager. Considering the remaining high politicisation of managerial positions and the poor managerial skills in the administration, there are concerns that such a mechanism could be abused for personal or political reasons.

Main Characteristics

For the moment, the ongoing financial crisis and the EU accession process are the main driving forces for reform in Croatia. On the one hand, a remarkable legislative activity is striving to fill the gaps for fulfilling the criteria for EU accession. On the other hand, the financial crisis is an obstacle to moving any faster in the implementation of reforms, especially when additional resources are necessary. Therefore, efforts are being made to improve the rationalisation and efficiency of the public administration, in an attempt to obtain better results from existing resources. This clearly is the approach of the Programme for Economic Recovery (PAR) adopted by the government in April 2010. The efficient use of international assistance should be another option to consider for resolving the problem of resources.

The fact that EU membership is being the main driver for reforms raises questions about sustainability and ownership but has at the same time also created new opportunities for change and modernisation.

At the current stage, it seems that public administration reform has been assumed, only too late, to be a basic component of the whole reform process, and therefore a great deal of work remains to be done for this reform to reach maturity. Many interlocutors in Croatia consider that, for the time being, the public administration is still part of the problem rather than part of the solution. The politicisation of the civil service, the unclear and inefficient organisation of the administration, poor service-orientation, inadequate managerial skills, and the insufficient capacity of many civil servants, heavy and formalistic bureaucracy, corruption and lack of transparency continue to be characteristics of the Croatian public administration. This is to a great extent the result of slowness in implementing the General Administrative Procedures Act (GAPA) and of the fact that the Human Resources Development Strategy (HRDS) and Action Plan for the civil service are practically almost not implemented. In order to achieve tangible results, the MPA should play a stronger and more dynamic role in leading the reform and in ensuring effective co-ordination between the key stakeholders at central, regional and local levels. However, it must be noted that the MPA's HRD Department has for the first time been reduced to only staff – the Head of Department – and that under such a constraint, it will therefore find it difficult to improve the situation.

More attention should be given to the HR units in the different bodies of the administration. They are understaffed, lack real support from the MPA and quite often from their hierarchy, need training for improving skills, and their activity relates mainly to bureaucratic procedures. The overall situation is very demotivating and there is little hope for improvement due to the budget and staff cuts. In 2010 the total

number of civil servants (central, regional and local administration) was 65,902 (about 4% less than in 2009).

The current performance evaluation system is regarded as a formal obligation with no bearing on the actual promotion or demotion of civil servants. It is an issue of concern and frustration for both public managers and their subordinates. Another resilient issue is the depoliticisation of top administrative ranks (state secretaries and directors), for which recruitment procedures and professional development requirements are less rigorous than for lower ranks.

Salaries have been frozen since 2009 for the whole civil service and Christmas bonuses have also not been paid. In addition, cuts (from 6 to 10 %) were made in salaries of civil servants in local self-government units.

Demands for a more effective public administration are intense but reforms are moving at a very slow pace. It is therefore not surprising that The Global Competitiveness Report 2010-2011¹ highlights “inefficient government bureaucracy” as the most problematic factor for doing business in Croatia. The burden of government regulation is another area in which Croatia is ranked very low (136 out of 139 countries), meaning that quality of legislation remains an area in which comprehensive improvements are still necessary.

However, as has been observed in some sectors, change is possible and achievable, provided that it is fully assumed as the main objective and that consistent action is taken.

Reform Capacity

The capacity of the MPA to lead public administration reform does not seem to be sufficient. The MPA does not have the necessary visibility, resources and skills for such a role. Moreover, its capacity is even diminishing as a result of the high staff turnover. The Ministry has also taken on board new tasks, such as the strategic planning of public administration development as part of the Economic Recovery Programme. This implies the rationalisation of state departments, the establishment of criteria for setting new state agencies, the creation of a civil service register, and the reduction of state employees.

The capacity of the Parliament also needs to be strengthened in order to produce better legislation and to allow it to fully exercise its oversight function over the government and implementation of reforms. In particular, the role of the Parliament in the budget process requires further attention.

It must be clearly understood that changing the administrative culture – a major challenge for Croatia – requires strong political commitment, qualified and motivated human resources, a communication strategy, effective co-ordination, dissemination of public service values, time, and coherent action. Without these conditions, effective reform will not happen, in spite of all of the interesting developments of the administrative legal framework and of the commitment of some isolated reformers.

For the time being, it seems that reforms in the public administration have not yet reached maturity and have not created solid roots. The risk of regression is therefore not negligible. It has to be admitted that this process requires time, but further commitment from politicians and managers is especially needed. The identification of allies in civil society may contribute to enlarging capacity and support.

¹ http://www3.weforum.org/docs/WEF_GlobalCompetitivenessReport_2010-11.pdf

Recommendations

- The implementation of legislation should be a priority and planned in advance in order to make reforms effective and sustainable. Any new piece of legislation should be accompanied by a realistic plan establishing the timeline and the resources and skills necessary for its implementation. The plan should also assess whether the required resources are already available and if they aren't, how to obtain them.
- Special attention must be paid to the implementation of the new General Administrative Procedures Act as well as to the reform of the administrative justice.
- The adoption of a realistic salary system for civil servants that will increase transparency, fairness and attractiveness also requires special attention. Real social dialogue will be necessary for broad-based support of the new system.
- The visibility of the PAR and both the visibility and capacity of the MPA must be increased.

INTEGRITY

Main Developments since the Last Assessment¹**(May 2010)**

Fighting corruption and organised crime has been a major challenge for Croatia's accession to the EU. The recent Interim Report from the Commission to the Council and the European Parliament on reforms in Croatia in the field of the judiciary and fundamental rights² once again stressed that "tangible results regarding the judiciary and the fight against corruption and organised crime are essential for the credibility of the EU's enlargement process."

Over the last year several cases of high-level corruption emerged in Croatia and relevant pieces of legislation were adopted or amended. It remains to be seen to what extent such developments are the result of a clear political commitment to dealing with corruption, along with the improved capacity of the judiciary, or if they are mainly the result of external pressure, especially in relation to EU accession. The ownership and sustainability of the recent amendments made to the legal system and its implementation are at stake.

The constitutional amendments of 2010 created, among others, better conditions for reinforcing the independence, impartiality and accountability of the judiciary, as well as for increasing international co-operation against crime. The right to access public information (freedom of information) was also added as a new constitutional right.

A new Law on Preventing Conflict of Interest was adopted on 11 February 2011. It better regulates conflicts of interest for promoting integrity in the public sector but some concerns remain about the effectiveness of the sanctioning framework. Recent political disputes in the parliament between the majority and the opposition about the election of the new Commission for the Prevention of Conflict of Interest shows that this topic will continue to be a matter for political clashes. The effectiveness of the regulation is therefore at risk.

The Law on Financing Political Parties and Electoral Campaigns, also adopted on 11 February 2011, shows improvements in this area. Its weakest point is the monitoring system.

Other pieces of legislation were adopted aimed at increasing transparency and fighting corruption and organised crime. This is the case of the Law on Confiscation of Illegal Gains Acquired by Criminal Offences or Misdemeanours (December 2010) and the Law on Managing State Assets (December 2010). A new Freedom of Information Act was adopted in December 2010 and later (in March 2011) annulled by the Constitutional Court because it had not been adopted by an absolute majority, which is required by the Constitution for organic laws.

The co-ordination among the USKOK (Office for the Suppression of Corruption and Organised Crime), the PNUKOK (Police National Office for the Suppression of Corruption and Organised Crime) and the specialised departments in the criminal courts was strengthened and contributed to increasing the effectiveness of the fight against corruption and organised crime. The experimental implementation of the new Criminal Procedures Act by the USKOK also had a positive impact.

1. For additional information on the Public Integrity System in Croatia (2011) see the full report.
2. COM(2011)110, 2 March 2011.

On 15 December 2010 the Parliament adopted the new Strategy of Judicial Reform for the period 2011-2015. The Strategy will be detailed in action plans to be designed in the future.

The overall backlog of cases in courts continued to decrease but additional efforts are necessary for better aligning the situation with acceptable standards.

The General Administrative Procedures Act (GAPA) is being implemented at a very slow pace. Current political commitment, expertise and resources are clearly insufficient for achieving the expected results for increasing the government's efficiency and transparency.

The National Anti-Fraud Strategy for Protection of the European Union financial interests in the Republic of Croatia is being implemented in accordance to the related Action Plan and with the support of a twinning light project.

Main characteristics

Croatia is making efforts to complete and improve the legal framework and related institutional setup for fighting corruption and organised crime. Reforms in the judiciary are an important part of this effort.

High-profile corruption cases show how deep corruption is embedded in Croatia's public sector. It is the result of a long culture of secrecy, political manipulation, control over the media, opaqueness and politicisation of the administration, conflict of interests, poor political accountability, and of an inefficient and non independent judiciary. As a consequence, impunity has grown strong roots in Croatia over the years which are now difficult to extirpate.

Corruption continues to be the main problem affecting the business environment in Croatia.³ Local governments, public works (highways), urban planning and construction, state companies, customs, military acquisitions and public procurement are the areas most at risk.

Changes in the legislation, in the judiciary and in reinforcing institutional capacity and operationality are positive steps. Investigations are being carried out and expectations are rising. However, it is still too early to assess how consistent and sustainable these efforts will be in the future.

The decision-making process in the public administration is still centralised at the highest, usually political, level. Therefore, the risk of non-transparent decisions, influenced by private interests, is also high and prone to corruption.

A more independent and efficient judiciary is being built. Relevant changes are still at an early phase of implementation and must be closely monitored. Additional resources are necessary for sustaining these improvements and improving the credibility of the judiciary.

The overall quality of legislation still requires major improvements. Legislation is characteristically opaque and successive amendments are a common practice, creating conditions and opportunities for corruption. Consultation mechanisms are foreseen in the law but poorly implemented. The capacity of the parliament must therefore be reinforced, practices like the abuse of urgent procedures should be stopped and procedures should be more open to the participation of stakeholders.

An ethics infrastructure exists for promoting integrity in the public administration (Code of Ethics, Ethics Commission, Ethics Commissioners, the Ethics Department in the Ministry of Public Administration [MoPA], etc.). However, it seems that these elements are in fact not very proactive and do not work as a system.

³. See for instance: www3.weforum.org/docs/WEF_GlobalCompetitivenessReport_2010-11.pdf.

The capacity for monitoring and evaluating progress, as well as for producing and making accurate and updated data available, is rather weak and requires improvement.

Reform capacity

Parliament's involvement in anti-corruption issues is basically limited to adopting legislation. Its capacity for acting as a leading institution in policy making, promoting enlarged national consensus and following up the implementation of policies and legislation is weak. Parliament must also demonstrate, by action, its commitment to a "cleaner" public administration. The election of the new Commission for the Prevention of Conflict of Interest does not prove such a commitment.

The Ministry of Justice (MoJ) is a major player in promoting and monitoring integrity and in fighting corruption and organised crime. The MoJ produced the Anti-Corruption Strategy and the Strategy of Judicial Reform. It has some capacity for identifying problems, possible solutions and for strategic thinking. However, its capacity for co-ordination, monitoring and evaluation is not sufficient.

There are expectations that reforms will reinforce the judiciary's capacity for tackling corruption and for promoting its independence, professionalism and integrity. These expectations should be confirmed at a later phase.

Concerning the public administration, promoting integrity is mainly a task for the MoPA. However, its actions must be more incisive, proactive and visible. The potential of the GAPA as a tool for changing the administrative culture does not seem to be clearly understood by the ministry.

The role of the media, business community and local NGOs is increasing and their activities should be strengthened and supported. They must be the main watchdog of the activities of political institutions and support for ensuring continuity, ownership and sustainability of reforms.

Recommendations

1. The government must concentrate efforts on the implementation of the adopted legislation and strategies since this will be the real test of Croatia's commitment and capacity in promoting integrity and fighting corruption and organised crime. Despite some weaknesses, the legal and institutional framework is almost complete. The challenge now is to make the system work and to show visible results.
2. Mechanisms should be in place for monitoring implementation and evaluating and reporting progress. The media, NGOs and the business community must be partners in this activity. At the same time, the parliament must fully assume its oversight function in this regard.
3. The government and the parliament must continue supporting the improvement of investigative and co-ordination capacity for fighting corruption, especially within the judiciary system.
4. Prevention requires more commitment and visibility. The GAPA must be fully implemented and used for shifting the administrative culture towards openness, transparency, information and service to the community. This is a role for all government and public administration bodies, under the co-ordination and guidance of the MoPA.

PUBLIC EXPENDITURE MANAGEMENT AND CONTROL

Main Developments since the Last Assessment (May 2010)

The adoption of the Budget System Law (BSL) in 2008, which came into force on 1 January 2009, was the start of several reform activities in Croatia in the areas of **public expenditure management (PEM)** and **public internal financial control (PIFC)**. The BSL has facilitated the implementation of the Strategy for the Development and Modernisation of the State Treasury 2007-2011.

Croatia was adversely affected by the financial and economic crisis in 2009. GDP declined 6% in 2009 and further 1,2 % in 2010. Despite the budget cuts in 2009 and 2010 the budget deficit for 2010 was 5,2.% of GDP and the forecast for 2011 is 5,6.% . Public debt as a proportion of GDP was in 2010 41.6% and is expected to rise next years.

The impact of the financial crisis led the government to adopt in 2009 the Programme for Economic Recovery. This programme defined the 2010 public sector reform agenda. One of the main resulting measures was the adoption of the Fiscal Responsibility Act (FRA) on 23 November 2010, which came into force 1 January 2011. This new law sets down new fiscal rules and aims to establish a financial accountability framework for the public sector. It also obliges all budget-users (including at local and regional levels) to present an annual "Fiscal Responsibility Statement", in which the head of the budget user is to confirm that the resources available have been used for proper purposes and that the financial management and control system is efficient and effective.

A consequence of the financial crisis in 2009 was a slowdown in the pace of reform activity. However, since the last assessment of May 2010, the Croatian authorities have continued to implement a number of the planned changes to the public finance management system. For example, the number of budget programmes has dropped from 321 in the 2010 budget to 185 in the 2011 budget, and a more robust system for registering and controlling commitments was introduced as from 1 January 2011. The Treasury financial management information systems have been integrated, and three large budget-users have been linked with the Treasury IT systems as part of a pilot initiative. The Ministry of Finance (MoF) adopted a number of by-laws that were foreseen by the BSL (e.g. by-law on budgetary accounting and by-law on financial reporting). However, some by-laws that were foreseen in the BSL have still not been finalised (e.g. by-law on budget execution and decree on capital budgeting).

The MoF has continued the development of a new strategic planning framework. In 2009 all ministries prepared three-year strategic plans. In 2010 these strategies were improved by the inclusion of more specific goals and related activities. In 2011 the MoF instructed ministries to analyse their objectives and indicators and to prepare a risk analysis to accompany their three-year strategic plans. Programme budgeting has been further developed, and in some ministries programme managers have been appointed.

In 2009 the revised PIFC Strategy, "Public Internal Financial Control System Development Strategy for the Period 2009-2011", was published along with an Action Plan. The launch of the PIFC Strategy was in 2010 accompanied by a series of "promotional" seminars around the country. Risk management is also being developed and workshops have been held. A new Financial Management and Control Rulebook is being prepared. The timetable envisaged in the Action Plan is broadly being adhered to, except for the rewriting of the Financial Management and Control Manual, which is lacking behind.

The National Anti-Fraud Strategy for protecting the European Union's financial interests, which was adopted on 14 January 2010, has been implemented largely in accordance with the accompanying Action Plan. Although in many areas staff employment has been restricted, the government recognised that the audit of EU fund management needed more attention. In accordance with a government decree of February 2010, 31 internal auditors were recruited in 2010, specifically for ministries with EU funds; in 2011 an additional 17 internal auditors will be recruited for that purpose.

There were two specific developments in 2010 relating to **external audit**. First, an amendment to the Constitution to ensure the existence and independence of the State Audit Office (SAO) was approved by parliament on 16 July 2010. Secondly, on 10 December 2010 a new Auditor General was appointed, with an eight-year term. The term of the former Auditor General had ended on 1 April 2010. As a consequence of the amendment of the Constitution, the Law on the State Audit Office had to be amended as well. In May 2010, the SAO delivered for the first time a report to parliament on the government's statement of the budget execution. This report was discussed by parliament in June 2010.

Main Characteristics

The Croatian Government responded to the 2009 financial crisis by recognising the need to improve the financial situation in the medium term, and the 2010 Economic Recovery Programme is evidence of this awareness. This programme has been assessed positively by international financial organisations. It is the first political priority in Croatia, and its implementation is progressing.

The **PEM** system in Croatia is relatively strong and sustainable, although continued development of the PEM system is necessary. For example, the number of direct budget-users (50) is still relatively high, which raises the question of the ability of ministers to achieve effective ownership and to ensure good quality strategic planning. The number of line-items in the budget is high (around 9000), which means that the budgetary control exercised by the MoF is still very detailed, although the 2008 BSL did allow for some reduction in the level of detailed control.

Capital investment undertaken by budget users is included as a separate item but within the budget for each budget user. The total investment budget included within the annual budget is relatively small (around 3bn kuna out of a total budget of about 125bn kuna) because some major infrastructure projects are excluded on the grounds that they are being undertaken by state companies which raise more than 50% of their funds from own revenues and are not classed as budget users in the Budget Act. Likewise contracts financed under private finance initiative and similar arrangements are also excluded. Currently the Ministry of Finance is preparing a decree on the arrangements for the approval and methodology for the appraisal of investment projects. The aim is to ensure that all financial and economic costs and benefits of a project are evaluated in order to maximize the effective and efficient use of budget funds. Publication of this decree has been considerably delayed. The decree will only apply to State budget users and will be only advisor for local government. It will not apply to state companies not classed as budget users.

The influence of parliament on the budget process is minimal. It has only one month to adopt the budget, and its capacity for scrutinising the annual final accounts is limited.

The State Treasury maintains detailed control of expenditure at budget-line level, and in addition the FRA (article 6) appears to provide the MoF with undefined powers to investigate budget-users. How these powers will be used is unclear, but great caution should be exercised in implementing the powers to carry out checks in accordance with the provisions of the FRA. This law appears to give to the MoF arbitrary powers to become involved, for whatever reason, in the execution policy of any budget organisation. These investigative powers can also be exercised by any person, and no particular qualifications are required for this task. This provision is arbitrary and contrary to the fundamental concept of managerial accountability. The underlying reason for the article is a concern by the MoF that in some budget users budget funds are not being used efficiently and effectively. Regulations are being developed to explain

how these powers will be used. Existing powers are already available to the MoF wherever there is a suspicion of irregularity, whether it is a case of gross financial mismanagement, fraud or corruption, and an investigatory organisation already exists, namely the Budget Supervision Department in the MoF. Where an investigation does reveal any wrongdoing that would come within the remit of the Budget Supervision Department then the matter would be referred to that department. Where the investigation reveals inefficiency and ineffectiveness then what action the MoF will take is unclear. The proposed regulations should clearly define how these powers would be used, to ensure that an arbitrary process would not occur.

The implementation of **PIFC** is supported by a coherent and comprehensive legislative framework. The revised PIFC Strategy puts emphasis on PIFC as a support to the executive level of administrative authorities such as ministers, directors of agencies, heads of departments and units budget users by helping them to deliver services efficiently and effectively. The head of budget user (the minister in a central government organization) has a responsibility to establish an efficient and effective system of internal financial control and the PIFC strategy envisages that delegation of authority will occur. However, the head of budget user remains responsible for all activity and delegation in practice can be limited, especially in local government and this in turn inhibits the development of managerial accountability and in turn the development of financial management. The CHU is making considerable efforts through training to improve the quality of financial management but the real benefits will only come with the education of the executive level of administrative authorities such as ministers, directors of agencies, heads of departments and units and the recognition by heads of budget users that they need to concentrate on policy and setting the parameters for public service delivery and ensuring that appropriate accountability arrangements exist. Reforms of this nature will also improve the quality of the governance arrangements by introducing more decentralization of authority and improving accountability. . The current managerial and financial management structures may be tested by the requirements of the fiscal responsibility statement that budget-user heads will have to sign according to the provisions of the FRA, but a weakness of the statement is that it provides only a certificate concerning the efficiency and effectiveness of the internal control arrangements, not with regard to the way in which funds have been used.

A feature of the PIFC arrangements in Croatia was the establishment of a PIFC Council. The Council appears to be functioning well, and it provides support to the central harmonisation unit (CHU). The Council met three times in 2010.

An internal audit service that is functioning independently (reporting to top management and not part of the operational activity) is in place in Croatia. Most institutions that were required to establish internal audit units have done so, although the majority is – sometimes considerably – understaffed, even with the strengthening of the staffing for the audit of EU funds. There was an increase in internal audit activity in 2010, but the audit focus seems to have remained more on compliance than on systems. In line with the PIFC policy paper, internal audit (IA) units have carried out horizontal (strategic planning) and vertical (health sector) audits. The CHU remains in charge of organising IA training but is exploring the possibility of co-operating with universities. As part of the revised PIFC Strategy, internal audit training has been reformed and made more concentrated. There remains a need to develop training on sector-specific issues (for example, auditing compliance with EU food safety regulations).

The CHU is active and well-informed. It works closely with the Treasury (drafting guidelines for performance budgeting and the FRA) and with the Ministry of Economy (guidelines for public procurement). The CHU and the IA units co-operate well, and the CHU's relations are also good with the Audit Authority and the SAO.

The Budget Supervision Department of the MoF still functions as the *ex post* control institution, although it is reconsidering its future position and role following the implementation of the Treasury and PIFC strategies.

The **external audit** institution (the SAO) has a strong reputation as an independent audit institution. Its position will now be strengthened by the constitutional reforms, and it has presented several proposals to parliament, including the more precise regulation of the financial independence and procedure for SAO reporting on the government's statement of budget execution. However, issues regarding the SAO's mandate and the requirement in the Law on the State Audit Office that certified auditors are personally liable for audit reports instead of the Audit Institution have unfortunately not been included in the proposal for amending the SAO Law.

In 2010 the impact of the SAO's work continued to increase. By presenting to parliament its report on the government's statement of budget execution earlier than in previous years, the SAO has provided parliament with the possibility of using the results of SAO audits in its discussions with the government on budget execution. The SAO has also continued to improve the system-based approach to financial audit. The SAO assesses the work of internal audits as well, but it does not assess all units annually and it does not review the quality of the audits of the IA units. However, the SAO has not yet taken steps to seek alternative solutions for dealing with its mandatory audit tasks, which are overly heavy, or to develop options for undertaking more performance audits. The changes to the Constitution and the leadership within the SAO took priority on the 2010 agenda of the SAO management.

Reform Capacity

Over the past two years the prospect of joining the EU has had a positive impact on the readiness of Croatia to implement the necessary changes. The Economic Recovery Programme of April 2010 was a key driver for reform. The Strategy for the Development and Modernisation of the State Treasury 2007-2011 is being implemented consistently. In the area of PEM, the readiness to implement change is evident, and the MoF seems to have a strong mandate for reform. Even so a considerable programme of work remains, including linking the financial management information systems of the Treasury with the systems used by direct budget-users.

The main challenge for PIFC will be the development of managerial accountability and in turn effective financial management. The establishment of effective managerial accountability structures with the delegation of authority by the head of budget user complemented by an effective financial management function will be an essential complement to the implementation of programme budgeting. Without that programme budgeting will not have the impact on the effective and efficient delivery of public services it is assumed to have. There are many ambitious reforms affecting both PEM and PIFC in Croatia. Implementing them all will be difficult within the envisaged time frames. The capacity, especially within the Ministry of Finance, to initiate and launch reforms is present, but the question is whether there is a sufficient capacity throughout the public sector to absorb all of the proposed reforms simultaneously. That there is a perceived need for the investigatory powers as envisaged under section 6 of the FRA indicates that problems may be emerging. Also, staff numbers are restricted, and a high proportion of the staff in place are relatively young and inexperienced. External assistance has been provided to the State Treasury and the CHU, but that support ended in the autumn of 2010 although the development of a finance function in line ministries is supported by specific technical assistance, there remains a considerable burden on the CHU. Co-operation is good between departments in the MoF as it is also between various government bodies (e.g. between the MoF and the Central Office for Development Strategy and Co-ordination of EU Funds), which is an asset in a demanding reform environment.

On the downside, there has been no visible improvement in the position and capacity of parliament to participate in the budget process. This situation implies that the government has not placed any emphasis on the role of parliament and that parliament itself has not initiated the development of its strategic capacity in the area of public finance management.

The **external audit** institution (the SAO) did not evaluate its Strategic Development Plan 2008-2013 in 2010 due to the two main developments: the constitutional change and the change of leader. The SAO has

demonstrated its commitment and capability to achieve progress in its reform activities in recent years. However, an external analysis of the SAO's vision and of the possible alternatives for its further evolution as a well-respected, professional and efficient institution could certainly have a positive effect on its decision-making processes and future development.

Recommendations

In light of the public administration's limited (absorption) capacity, the Government should continue to implement and actively follow-up on the newly introduced Treasury and PIFC reforms, and refrain from not launching new reform initiatives. This implies, among others things, that:

- The Government should continue to improve both general and financial management capacities in line ministries;
- As part of a drive to improve the quality of line management and, in turn, governance arrangements, the MoF should examine possible ways of encouraging the delegation of authority by the heads of budget users.

In order to improve the efficiency and effectiveness of Public Finance Management:

- The MoF should examine measures that will allow it to focus its limited resources on key controls and to strengthen strategic planning and financial management of ministries, and shift its focus from control of inputs to control of achievements (even if this requires some consolidation of budget users and a reduction in the detailed control over budgets by reducing the number of line items subject to control);
- All investment undertaken by state controlled organisations should be brought within the scope of the budget and the proposed decree on the appraisal of investment projects;
- The MoF should prepare a regulation to ensure that the powers to carry out checks that have been granted by provisions of the FRA will not damage the concept of managerial accountability;
- As current internal audit focuses mostly on the audit of EU funds (which represent only a small part of all state and local budgets) to the detriment of the audit of state funds, the CHU should reorient its focus on the risk analysis of internal audit units in order to find the right balance between the audit of EU funds and the audit of state budget and local government budget funds.

In 2011, the SAO should give priority to strengthening its capacity to think strategically and to developing a vision on how it should elaborate and formulate short-term priorities up until 2013. Having been operational for more than a decade, the SAO should consider seeking peer advice on its development strategy

The Parliament's function and capacity in the budget process should be strengthened, both in terms of budget planning and budget execution.

PUBLIC PROCUREMENT

Main Developments since the Last Assessment (May 2010)

No amendments to the legislative framework for public procurement (including review and concessions/public private partnerships) in Croatia have been made in the past year. For Croatia's public procurement system, 2010 was yet another year of consolidation and limited gap-filling after the significant changes of 2008-9, which included the entry into force of a new Public Procurement Act (PPA), a Concessions Act (CA), a Public-Private Partnership Act (PPPA), and a new institutional set-up.

In early 2011 the final draft of the new Public Procurement Act was officially presented by the Directorate for the Public Procurement System (PPD) in the Ministry of Economy, Labour and Entrepreneurship, in line with the deadlines set in the Action Plan for Chapter 5. An adoption of the new law is expected in June of this year.

The Central Procurement Office (CPO), in operation since early 2010, has conducted by the end of February 2011 11 tender procedures in six categories (sub-categories), in accordance with the government regulation on centralised purchasing. The CPO has concluded 16 framework agreements and three contracts, for a total value of 1.2 billion HRK. The CPO has 14 staff, while another three are being recruited.

In February 2011 the Agency for Public-Private Partnerships issued its approval for the first two Public-Private Partnerships (PPP) projects to be carried out in line with the new legislative system on PPPs.

Chapter 5 was provisionally closed in June 2010.

Main Characteristics

The PPA complies and is harmonised with the EC Directives (this applies also to EC Directive 2007/66). Its implementation has been efficiently co-ordinated and supported by the Public Procurement Directorate (PPD) in the Ministry of Economy through a range of activities, including training, guidelines and daily assistance. At the same time, more effort is needed to build understanding and capacity, which includes the provision of guidance to explain these new concepts and practices so as to enable the system to operate more effectively.

The PPD remains the leading policy-making and monitoring institution, although its current staff limitations could potentially lead to a weakening of that role. Additional efforts should be made to retain both the competence and system leadership of the PPD.

The somewhat formalistic approach that continues to govern the management of procurement processes still needs to be eliminated. Increased capacity-building would also be welcome, not only on compliance issues but also on the more general objectives of procurement rules and the operation of procurement markets in a market economy. The further guidance needed should also take into account the reality of procurement markets and avoid mechanistic solutions, which reduce procurement to a clerical function.

The elaboration of additional common training materials and of a programme for training public procurement officers will be important elements in tackling this problem.

The CPO faced extensive problems during 2010 in setting up its organisation and operations. Furthermore, 14 complaints have so far been filed with the State Appeals Commission (DKOM), which of course has led to delays in the conclusion of framework agreements.

In February 2011 the Agency for Public-Private Partnerships (PPPs) issued its approval for the first two PPP projects to be carried out in line with the new legislative system on PPPs. A certain risk in this area remains, arising from the fact that three acts cover similar situations (where the nature of a public contract or concession is difficult to determine). This uncertainty will have to be carefully addressed by the policy-making institutions in charge.

Although the independent DKOM has for a long time been the solid cornerstone of the Croatian procurement system, recently the sheer number of appeals lodged has placed strains on the Commission's delivery of judgments. Both financial and personnel resources will have to be allocated to the DKOM to enable it to continue to work effectively.

Reform Capacity

Croatia's public procurement system has reached a high level of functionality and compatibility with the procurement systems of EU Member States. Extensive resources have been invested in the elaboration of a legal framework transposing the EC Directives. The legal framework – PPA, CA, PPPA, and Act on the State Commission for the Supervision of the Public Procurement Procedure (PPRA) – has also been supplemented by the issuance of secondary legislation and the preparation of operational tools in the form of guidelines and website information. A number of training activities have been conducted to support capacity-building at operational level.

The CPO nevertheless remains an inexperienced organisation, with limited knowledge about managing the processes for awarding and operating systems for framework agreements.

Recommendations

1. Undertake a feasibility study for the development of the IT infrastructure for e-procurement and, in particular, e-auctions;
2. Prepare a short and medium-term strategy and action plan for the operations of the CPO;
3. Follow through with the work on merging staff and procedures for national procurement and staff working on EU funds (PRAG-based);
4. Consider strengthening the capacity of DKOM (in terms of both staff and substance) in dealing with its increasing caseload (as concessions are now also being reviewed).
5. Consider developing a system-wide methodology for proposing, evaluating and selecting public investment projects (regardless of where the funding comes from) and agreeing (within the law) on who does what and how actors can support each other within the same system.
6. Strengthen efforts to overcome the formalistic approach of contracting authorities towards public purchasing, putting more emphasis on obtaining value-for-money.

PROCUREMENT/CONCESSIONS STATISTICS for 2010

A. Number of contracting entities		
Central government	92	
Regional and local authorities	398	
Other (bodies governed by public law)	931	
Utilities	157	
Total number of contracting entities	1578	
B1. Awarded public contracts/Contracting entities	Total (estimated) value (Mio EURO)	Total number
Central government	376.3	2167
Regional and local authorities	280.4	3364
Other (bodies governed by public law)	1,313.6	15948
Utilities	761.6	4689
Total public contracts awarded	2,731.9	26168
B2. Awarded concessions/Contracting entities		
Central Government	/	61
Regional and local authorities	/	2111
Other (bodies governed by public law)	/	31
Utilities	/	/
Total concessions awarded	68,37	2203
C1. Awarded public contracts above the EU thresholds		
Works	152.7	170
Services	748.4	945
Goods	830.0	4052
Mixed contracts		
Total public contracts above the EU thresholds	1,731.1	5167
C2. Awarded concessions above the EU thresholds		
Works	/	1
Services	/	2201
Other	/	101
Total concessions above the EU thresholds	N/a	2203
D. Procurement methods used (above the national thresholds)		
Open procedure	1,965.9	10398
Restricted procedure	5.2	18
Negotiated procedure with prior publication of a notice	108.3	44

Negotiated procedure without prior publication of a notice	394.9	1551
Other procedures (competitive dialogue, etc.)	0.4	3
D1. Low-value procurement (estimated)	257.2	14154
E. Participation rate (average number of submitted tenders)		
Works	4,22	
Services	7,02	
Goods	1,58	
F. Review procedures		
Number of complaints received	N/a	1919
Number of rulings issued	N/a	1660
Number of appeals against rulings of the review body	N/a	71
Number of decisions with interim measures	N/a	

F. List of 10 largest procuring entities (name, main activity, (estimated) annual procurement budget):

1. Hrvatska elektroprivreda d.d. (Croatian Electricity Group) national electricity company
2. Hrvatske ceste d.o.o. (Croatian Roads, Ltd.) – operation, construction and maintenance of state roads
3. Hrvatske autoceste d.o.o. (Croatian Motorways, Ltd.) – operation, construction and maintenance of motorways
4. Hrvatske željeznice d.d. (Croatian Railways Holding Limited Liability Company)
5. Vlada Republike Hrvatske (Government of the Republic of Croatia)
6. Hrvatske vode –Croatian Water (integrated management of Croatia water resources)
7. Ministarstvo zdravstva i socijalne skrbi (Ministry of Health and Social Care)
8. Hrvatske šume d.o.o. (Croatian Forest, Ltd.) – public enterprise for forest and woodland management in Croatia
9. Ministarstvo regionalnog razvoja, šumarstva i vodnog gospodarstva (Ministry of Regional Development, Forestry and Water Management)
10. Klinički bolnički centar Zagreb (Clinical Hospital Centre Zagreb)

G. List of 10 largest public contracts/concessions awarded and/or advertised in 2010 (subject of the contract, name of the contracting authority and contractor (if selected), (estimated) value, time of execution):

1. Long-term credit, Hrvatske ceste d.o.o. (Croatian Roads, Ltd.) , Zagrebačka banka d.d., Banca Infrastrutture Innovazione e Sviluppo SpA, Privredna banka Zagreb, Raiffeisenbank Austria d.d., Societe generale-Splitska banka d.d., 1.124.930.846,49 HRK, (152.322.883,50 EUR), 02/07/2010

2. Universal postal service, Ured za središnju javnu nabavu Vlade Republike Hrvatske (Government of the Republic of Croatia – Central Procurement Office), HP-Hrvatska pošta d.d. (Croatian Post Ltd.), 252.000.000,00 HRK (34.122.423,40 EUR), 15/09/2010
3. Long-term credit, Hrvatske vode, (Croatian Water), Erste & Steiermarkische Bank d.d., 218.364.152,17 HRK (29.567.912,92 EUR) 23/11/2010
4. Eurodiesel fuel, HŽ Vuča vlakova d.o.o. (Croatian Railways Holding – Traction Ltd.), Euro-Petrol d.o.o., 195.125.617,50 HRK (26.421.265,62 EUR), 07/04/2010
5. Long-term credit, Hrvatske ceste d.o.o. (Croatian Roads, Ltd.), Privredna banka Zagreb, 172.514.692,72 HRK, (23.359.600,75 EUR), 03/03/2010
6. Long-term credit, Hrvatske autoceste d.o.o. (Croatian Motorways, Ltd.), Hypo Alpe Adria Bank d.d., 161.718.190,35 HRK, (21.897.864,77 EUR),15/04/2010
7. Long-term credit, Hrvatske autoceste d.o.o. (Croatian Motorways, Ltd.), Zagrebačka banka d.d., 160.295.349,87 HRK, (21.705.023,01 EUR), 22/02/2010
8. Long-term credit, Hrvatske autoceste d.o.o. (Croatian Motorways, Ltd.), Credit Suisse International, 159.923.854,79 HRK, (21.654.720,18 EUR),28/06/2010
9. Long-term credit , Hrvatske željeznice Holding (Croatian Railways Holding Limited), Hrvatska poštanska banka d.d., 140.000.000,00 HRK (18.956.901,89 EUR), 02/08/2010
10. Provision of electricity, Ured za središnju javnu nabavu Vlade Republike Hrvatske (Government of the Republic of Croatia – Central Procurement Office), HEP opskrba d.o.o. (Croatian Electricity Supply Ltd.), 139.391.101,39 HRK (18.874.453,10 EUR), 16/07/2011.

POLICY-MAKING AND CO-ORDINATION

Main Developments since the Last Assessment (May 2010)

The overall system for policy co-ordination has remained stable. A Programme for Economic Recovery (PER) was published by the Government in April 2010. Following its publication, the Secretariat for the government began to monitor progress by Ministries in the delivery of the objectives set out in that Programme. This additional monitoring gave the government secretariat a more dynamic role as regards strategic planning which was, and to a large extent still is, a process dominated by the Ministry of Finance (MoF) and the Central Office of Development Strategy and Coordination of EU Funds (CODEF).

Some small developments may be seen as regards improving the policy-making process.

- The Guidelines on consultation, published in 2009, are now complemented by a code of practice on consultation. Ministries' consultation co-ordinators also started receiving training in 2010.
- The Government Legislation Office (GLO) was given responsibility for regulatory impact assessment (RIA) in November 2009. In 2010 it began work on developing a methodology for impact assessments and undertaking pilot studies.

Main characteristics

There is an adequate formal legal framework (Standing Orders and Rules of Procedure) for the development of policies and co-ordination. There is an effective dispute mechanism in place at the centre of government to avoid unnecessary or unprepared issues reaching the cabinet. There is adequate logistical support for the efficient conduct of government meetings.

Policy-making in ministries is undertaken by the use of expert task forces, co-ordination committees and an inner cabinet (a subcommittee of government) manages the process overall. There is a planning and monitoring system based on co-operation between the General Secretariat of the Government, the Ministry of Finance, and the Central Office of Development Strategy and Coordination of EU Funds (CODEF). Co-operation between these central organisations seems to be working reasonably well. However, the responsibility for policy planning and co-ordination is also divided between these three institutions and it is not always clear who should take the lead in developing the overall policy-making framework.

Concerns expressed in previous assessments remain about policy capacities of government and ministries beyond the adoption of the European *acquis*. There is little evidence that the system is prepared to function as a member of the European Union as distinct from the system being able to cope with the challenge of becoming a member of the European Union.

Policies not affected by membership of the European Union are not pursued with enough rigour. The mechanism envisaged in the 2008 Strategy for the Reform of State Administration for planning and monitoring work not related to European integration has not been introduced. Issues, such as the need to reform public service pay and labour law, remain stalled in the decision-making process. Many proposals for policy reform, such as the reform of Sunday opening hours, rationalising the pay structure for the public service and even the policy to ban smoking in public places, are diluted in response to pressure from trade unions and other interest groups.

Despite improvements in recent years, the quality of policy development and law drafting in ministries remains variable and overall is poor. There is recognition that policy development and legislative drafting skills need to be developed much more comprehensively in the public service. Evidence for this may be seen from the fact that the Civil Service Training Centre of the Ministry of Administration is giving priority to undertaking training to improve policy development and legal drafting skills in line ministries.

However, these training courses are limited in frequency and in number. Ministries operate in a hierarchical manner leaving little scope for delegation or incentive for taking initiatives by officials.

There is not an explicit policy in place analogous to the SMART regulation policy in the Institutions of the European Union or the Better Regulation policies in many member states. Little attention is paid to improving the management of the stock of legislation. Frequent amendments of laws and the lack of a policy on consolidation or of making legislation available electronically, make some legislation inaccessible through excessive amendments.

Improvements in the link between strategies, policies and the budget together with better consultation practices and the introduction of impact assessment are leading Croatia incrementally towards a better regulation policy but progress is very slow.

Each Ministry has a consultation co-ordinator (a person whose job is to improve consultation with the public on proposed policies and draft laws). However, further work will be needed before a fully functioning and credible consultation process is put in place. Despite progress in improving consultation processes, much more needs to be done to build a consultation culture and build capacities to develop the use of this tool both at the level of government and in civil society.

Responsibility has been conferred on the Government Legislation Office to develop a policy on the use of impact assessment and to roll it out in ministries. This is a positive step as that Office also has the role of reviewing the quality of legislation from the point of view of constitutionality and conformity with the general principles of law but progress in this field remains painfully slow. Fiscal impact assessment arrangements are operational and are gradually improving, although the approach to filling the relevant forms often remains formalistic.

As regards strategies, there is a link between the three-year strategies produced by all ministries, the government strategic programme and the budget. At the start of each year, each line ministry has to prepare a three-year strategic plan. These plans are then compiled to form a government-wide three-year strategic programme that forms the basis for the annual budget process. This system involves primarily a bottom-up process, but since 2010 the Ministry of Finance and CODEF have organised joint workshops with line ministries to review progress achieved in comparison with 2009 objectives and to link line ministry plans with wider strategic and budgetary objectives. The MoF has provided training in

this field and states that more ministries are now developing performance indicators. The planning process for EU funds has increased the capacities of a number of ministries and more significantly within the CODEF.

Many weaknesses, however, remain. For example, the secretariat for government needs to develop further its capacities to monitor the delivery of policies. Under the current arrangements, there is no obligation to monitor the delivery of policy outcomes. There are no plans in place to change this situation.

Concerns expressed in previous assessments remain about policy capacities of government and ministries beyond the adoption of the European *acquis*. There is little evidence that the system is prepared to function as a member of the European Union as distinct from the system being able to cope with the challenge of becoming a member of the European Union.

The Ministry of Foreign Affairs and European Integration (MFAEI) has the necessary structures and a fair capacity to coordinate EI affairs. There are two independent directorates within the MFAEI who, together with the Office of the Chief Negotiator, report to the State Secretary for European integration and form a rather autonomous structure within the MFAEI. However, the location of these structures within the MFAEI however does not set the best preconditions for ensuring good coordination of EU policies within the Croatian administration.

Reform capacity

Considerable efforts are being expended to take the steps necessary to become a member of the European Union. The systems put in place have demonstrated a capacity for the complex work of adopting the European *acquis* and moving the country towards membership of the European Union. It is arguable that these structures and capacities could be made available to government to the next stage of Croatian development:

- Developing policy capacities to deal with the challenges of membership,
- Making sure that the legislation that has been adopted is implemented,
- Developing better policies and laws in areas not regulated by the *acquis*.

The economic crisis has inevitably impacted negatively on the capacity to reform in general and the capacity to reform the policy-making process in particular. A recruitment embargo is in force which permits only one in three vacancies to be filled. A further challenge faces the public service in that low pay acts as a disincentive for well qualified officials to remain in public service.

A further constraint on reform is that the public service remains very hierarchical with little scope for operational initiative and inadequate delegation of powers. All of these factors combined together limit the capacity for reform and development of capacities in policy-making.

In terms of central co-ordination, the mandate and capacities for coordination of EI affairs by the MFAEI remain strong. The Ministry of Finance is having an increasingly active role in strategic planning. CODEF has a small core of strategic planning expertise, in particular for the wider economic policy. However, the restrictive remit of the General Secretariat of the Government and the general weakness of the centre of government constitute a major capacity gap.

Recommendations

- The Civil Service Training Centre of the Ministry of Administration should provide further and better training to equip the public service with the level of skills needed to develop effective public policies and draft laws, as well as capacities to manage public consultations in an effective manner that balances interest group demands with the wider public good.
- The government should improve policy co-ordination and monitoring capacity of the General Secretariat of the Government. The government should develop and implement a comprehensive policy in Croatia to improve the policy cycle. This would involve:
 - Improving policy capacities in ministries;
 - Improving legislative drafting;
 - Accelerating substantially the introduction of impact assessment;
 - Improving consultation by government with the public;
 - Developing a policy to capture all legislation electronically and make it available to the public;
 - Initiating a programme of reviewing the stock of legislation with a view to reducing administrative burdens on business, especially small businesses, and the public.

The government should more systematically start preparing the transformation of existing EI structures into EU policy co-ordination structures that can ensure Croatian participation in EU decision-making processes immediately following accession.