

DEVELOPMENT STRATEGY OF THE REPUBLIC OF CROATIA

“Croatia in the 21st century”

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PUBLIC ADMINISTRATION

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STRATEGIC DECISION-MAKING: IMPERATIVENESS OF REFORMS AND A GENERAL ASSESSMENT OF THE PRESENT SITUATION¹

1. Reform strategy

The public administration reform strategy does not refer to the forms of administration, the number of ministries, the form of employment agreements or the manner in which the administration is financed, neither does it refer to the number of employees. The strategy is not a definite action plan clearly exposed in a given document or an overall understanding of a sequence of actions necessary in order to attain a goal or instructions as to how mobilize all those activities aimed at achieving such a goal.

Strategy means an effort to articulate guidelines for the identification of actual problems in public administration as well as a framework for taking decisions that answer the question “**what do we want to do and what do we want to achieve**”. A reform strategy for public administration means understanding of the directions of change in the economic, political and social system within which the public administration functions, understanding the new problems and possibilities it is faced with, understanding the potential and dangers that await us in the foreseeable future. The strategy provides **the basis for establishing performance criteria** and criteria for the recruitment of people who will know how to cope with future problems, the basis for a collective assessment and professional interaction among all those involved and finally, as regards the practical aspect the most important, **the strategy is the basis which will ensure that unforeseen and practical objectives be perceived in the framework of long-term results to be attained**. It is possible that the Government may adopt and implement concurrent measures as the needs of the moment may require. Such measures would be harmonized with the strategy in the course of time and the elements of chance or politically opportunistic calculations will be substituted by strategic guidance.

2. General objectives of the public administration reform

Let us be more specific in defining the meaning of the strategy: cheap does not mean less expensive but within realistic economic and material possibilities of society; small does not mean less numerous or less important, it only means that quantity does not necessarily guarantee quality. Efficiency means an emphasis on social responsibility towards citizens – voters, quality service to users, citizens - tax payers, the creation of trust and cooperation with citizens, and as regards the economy, the encouragement of such favorable conditions as to promote business and investments. Finally, a legitimate political power has a double role regarding reforms: on the one hand there is no effect whatsoever without a clear and sound political will to support such a reform, and on the other hand expensive, oversized and inefficient administration strips of legitimacy or makes pointless any effort to carry out the policies through administration. Therefore, to attain a democratic and efficient

¹ Based on the J. Kregar's study

political system, public administration should be used in such a way as to become an instrument of such a system. The constitution of a modern state begins with the Constitution and a clear determination of the rights and obligations of the highest government institutions. A fair justice system is a guarantee for the protection of inalienable human rights and also a guarantee of the orderly functioning of the rule of law. Although the analysis of these relations is beyond the scope of this strategic analysis, some elements relative to central issues shall be relevant for final conclusions.

The primary goal is to cut public spending in the very literal sense of the word, while **a long-term objective is to improve the efficiency of the system**. To prevent the increase of expenses means to rationalize the number of employees, reduce unnecessary overlaps whilst taking care not to obstruct the normal functioning of service. The reform of government authority must aim at a clear separation of powers into the legislative, executive and judicial branches. Independence of the government in a political sense is a prerequisite for its responsibility. The reform of local authority must provide for a new form of partitioning, enlargement of the competence of local self-government and strengthening of source revenues for local units.

Finally, the reform of public administration is not an end in itself, it can hardly be successful unless it become part of a serious transformation of society, not only of its institutions but also of the living tissue of dynamic economic restructuring, stabilization and progress, of democratic political processes and social changes.

3. ASSESSMENT OF THE PRESENT SITUATION

We begin with the general characteristics of the status quo. In each of the subsequent chapters we make a specific characteristic assessment of the status quo – of central government, local and regional self-government, civic society, public administration financing, the judicial system. However at the beginning we would like to mention the general characteristics of the current social and political situation. We do admit that whilst assessing the situation we have primarily focused on the negative aspects of the situation. In other words, what we want to say is that reforms are necessary not because we are not satisfied with the situation but because we believe in improvement. A strategic perception on the other hand will provide for the situations where negative processes substantially affect the formulation of conclusions relating to necessary changes. The statement that Croatian public administration is not substantially worse than the situation in comparable countries or than public administration in the past holds good.

Yet Croatia cannot be satisfied with the statement that it not worse than others because it is a relatively developed country in transition, and very ambitious in its efforts to approximate European criteria relating to the operation of public administration. From such a viewpoint giving prominence to obstacles and restraints, issues and difficulties, mistakes and generally the negative aspects of the situation is to have a positive effect on changing the status quo. A scenario for the future assumes an

active role in building the future; it starts from the difficulties and assumes improvement.

Modernization of administration and local self-government was far from being a priority for past governments. This is well illustrated by the absence of plans, documents and documentation, reliable data useful for planning. Despite the rhetoric about the building up of the state, professionalization of administration and the rule of law, **the devolution of institutions**, deprofessionalization, as reflected in the decline of ethical and professional standards, occurred, and the rule of law has become synonymous with state power instead with social justice. When the Act on Local Self-Government was passed there were warnings about excessive centralization and fragmentation of local administration; however they were ignored. The consequences of the inactivity of public and professional associations, and the removal of a great number of institutions² having necessary information relating to administration available are shown now. At the same time the process of expansion and growth, the creation of a system of ample spending of redistributed funds, the degradation of institutions serving personal connections, corruption, and a negative recruitment have created a situation which lent itself to the postponement of reforms.

The growth of administration is the result of this system. The expansion has been especially pronounced in the sectors of external and internal security. An independent state policy requires the development of a completely new, expensive and responsible, diplomatic service and network. The military, which is expensive under all circumstance, during the war gained in importance and capacity. In spite of demobilization and declarations as to its reduction, not even the costs have been reduced let alone the number of employees. The costs of the military far exceed the economic potential of the country, and more importantly, are not transparent and beyond public control, and are even beyond the control of the government and other competent bodies. The police force has not been reduced to its pre-war level either and so is a kind of a back-up military power.

In addition different pathologic processes of employment are in place. Employment in public service is in many areas the only source of revenue. In addition, after the war mobilization many people have pursued military or public service career. Nepotism and preference of candidates according to their origin (family or local) is widely spread. Peter's principle and Parkinson's Law in these situations have ceased to be marginal phenomenon and have become an important rule.

Expansion of the state administration and its related institutions is the result of the reliance on the state budget reallocation of funds. However, in order to give and reallocate funds the state must take more all the time. It is forced to do so from an objective pressure of needs but also from the need of the ruling coalition to strengthen its position by using its power of reallocation. The result is a heavy reliance on state support and powerful politicians which negatively affects economic entrepreneurship and particularly production and innovation. Reallocation of funds is the source of

² With the exception of the Institute for local self-government Osijek, activities of the Association of towns and municipalities and the Croatian Institute for public administration. There is discontinuity of work, no

corruption. It has become normal to refer to the government in any emergency which discourages the taking of any business risks. The authorities want to squeeze out the last penny from the population. On the other hand substantial funds go for different ceremonial activities and benefits for the privileged.

The political system is fragmented as a result of numerous groups fighting for power and resources. The reasons for the emergence of such groups are not ideological or political or due to different political programs of the parties. The only thing that distinguishes them is their position in the political structures and personal connections.

Maybe the most disastrous is the old habit of postponing problems, particularly the less popular measures, to some "better times", in fact to some other government; enormous borrowing the repayment of which will be spread over a long period in the future, and a general atmosphere of opportunistic indecisions and delay which escalated in the late nineties as a result of Tudman's illness and the struggle for his heritage and influence. The unstable political situation adversely affected the modernization of public administration, especially the fact that politics focused on pre-election promises and the manipulation of a false image of positive development. In such circumstance it is not surprising that political and administrative structures have degenerated and become rigid.

3. Prerequisite – political platform of the reform

The aim of the political platform of the Government is to stop and reverse the above mentioned tendencies. Legitimacy and a high level of public support are a good basis for the reform of public administration. A handicap is the lack of data, plans and people willing and capable of working out and implementing such measures or of any active resistance of the endangered pressure groups as well as the inertia of public servants (one should remember here the principle of recruitment!).

The inherited problems are still present: a low working morale, negative recruitment of employees, the general situation in the country, the lack of resources and programs, the inability to deal with problems or risks of dealing with problems delayed for too long (retirement reform, reform of public services, reform of public administration). Hence no substantial changes have occurred for quite a long time. The present tendency to delay taking true decisions by compromises reached between personalities and political parties have turned into a sort of a barrier. Or to put it more simply: any initiative may be stopped and blocked but few may be encouraged and implemented.

The strategies, like this one, take into account such a situation while recognizing its potential and consequently defining long-term objectives and needs. The fact that currently political platforms lack a clearly noticeable willingness to carry out a uniform and prompt reform does not necessarily mean that such potential is nonexistent. **The main idea of a political program for the modernization of the administrative-political system is a reform of gradual changes, a reform**

that contains several stages which will successively remove identified obstacles. We do hope that such a plan will succeed. Whilst pragmatic in nature and thus limited to a minimalist program, this properly focused plan has high potential. At this point in time we can clearly see potential **risks**: the discontinuity of political power might bring about the delay of reforms; pre-election periods will result in a standstill, the government program is far too dependent on its proponents, and most importantly, changes initiated without any data or a clear strategic vision will end up in very chaotic measures (in addition to the resistance to reforms on the part of adversely oriented interest groups) and the like. A purely pragmatic approach may hardly suffice for administrative reform regardless of how vigorous it might be. Reforms of public administration should not be reduced to political decision-making where the effect of the popularity of measures to be taken is crucial. Politicians think about the next elections while true statesmen think about the next generation. **A strategy may not rely on a method based on taking the easiest decision**, if in the long run such a decision might be expensive or detrimental. A strategic task, therefore, is not to set a rule for new laws or other pieces of legislation but an understanding of the question what kind of Croatia, what kind of state or public administration we want and more importantly what are the means to achieve this!

4. Reform assumptions: possible scenarios

In a more elaborated form of the strategy of public administration, we have tried to identify possible scenarios which would in a more precise way define parameters for future development. There was no general consensus as to what these scenarios should be, primarily because a consensus on objectives, the formulation of a model and particularly a probability assessment depend on reliable data, and a clear professional and political consensus. Thus we agreed to point to general objectives, to potential risks and possible limitations. We want to indicate possible scenarios – applicable only to a certain extent, so as to stress the limited viability of predictions. Three scenarios are possible in such circumstances.

Stagnation scenario

A stagnation scenario is very likely in the case of Croatia's isolationism from global modernization changes. In the worst possible scenario centrifugal forces prevail, the system is unstable, and **hurried and unwise reforms and adaptations follow**. Not much would change as, regardless of rules and big words, a routine bureaucracy cements according to a classical model of monocratic organization. Because of the social environment, culture and established values, poverty in the true sense of the word and political instability, the characteristics of precision, speed, savings in material and psychological costs, reliability and the predictability of following the rules fail to take place. In such a scenario professionalization is limited while leadership is in the hands of loyal ones. As a result work morale and professional values are eroded at a quick pace. Promotion is not related to capability and achievement but party, patriotic or regional affiliation or low moral values. Institutions and procedures as defined by law are only an appearance while the system degenerates into a stable but inefficient, uncreative, inflexible and expensive bureaucracy. Such a scenario is

supported by not very numerous but powerful and wealthy groups which profited from the degeneration of the administrative and political system which occurred in the nineties. Such a scenario is not very likely because it is incompatible with basic modern social processes, because it leads to isolationism, both economic and political, into periodic instability and strong political crises. It is thus this is not a very likely strategy for a small country in the neighborhood of the European Union.

A slow adjustment

The next scenario is in fact **an extrapolation of the present tendencies** relating to a slow modernization process, inadequate support and inadequate mobilization of knowledge, human resources, funds and political will and power in the implementation of reform. Unlike the previous one this scenario does not imply change for the worse but only a lack of progress. The processes of gradual expansion of administration, gradual differentiation and informatization continue. A local self-government ceases to be a community and serves primarily for the execution of power related tasks. A leading political elite, publicly advocating changes, is because, of its position, against any modernization as this implies loss of power and benefits. The power of interest related inertia is even stronger in social groups which do not actually enjoy special privileges, power or wealth, but whose social safety is better than that of average citizens. It is these social groups that characterize public administration and they oppose changes, regardless of their objective necessity, or general or national interest of development. Once established, bureaucratic organization is one of those things that do not easily change. Such a development scenario is most likely in a passive social, political and economic situation. However this is not the Croatian situation and it is more likely that in the next twenty years such crises and changes will emerge that will not support the status quo.

Modernization and Europeanization

The third scenario implies the approximation to the European Union. In this **scenario the elements of internationalization and globalization** will inevitably also reflect upon Croatian public administration. Following the Amsterdam, Maastricht and Nice agreements there is not any doubt that Europe has become a uniform political, economic and legal area. Every country, especially small ones, which want to join this economic and political giant must adjust their management criteria to European standards. As the European Union is based on multicultural societies, a high level of protection of human rights, the principle of subsidiarity in legal matters and respect of national specificities, in other words on flexibility, the unification of principles and integration processes will also apply to candidate countries. It is quite obvious that such tendencies are already present in economic and legal regulations, primarily in the operation of transnational regulatory centers (such as European flight control, GRECO, traffic corridors and other, and in its own specific way also the European Court for Human Rights). One should note here in particular the European Charter of Local Self-Government, relevant instrument regarding regional self-government and cross-border cooperation, office ethics standards and other. The objective of the EU administration reform is

specifically "the promotion of new standards of Europe governance by giving the citizens a higher degree of participation in deciding and consequently influence and by making the operation of European institutions more transparent and more efficient ... and by promoting in the digital era employment and sustainable development "³ In addition, initiatives such as SPAI and other are directed at the unification of criteria and enhancing good governance in the countries candidates for the EU. In such a scenario the development and reforms of public administration in following these models will run late and will oscillate. There will be periods of quiet development and faster implementation of reforms. There will be periods of slow development and more rapid reform implementation⁴ and the periods of crises when the inertia and limitations arising from cultural, social, economic and political reasons inherent to our public administration will be more obvious. The prospect of such oscillations are irrelevant for strategic decision-making; planning is long-termed and conditioned by the continuation of global change processes within society and administration.

Prerequisites for the reform: possibility of success

The above scenarios have been set forth so as to point to the development contingencies and also to show that there are strong motives for not considering Europeanization as an external pressure but as an internal and genuine need of Croatia to approximate its public administration to European standards. Success in the application of the strategy for public administration reform depends on numerous unpredictable circumstances within the time range to which the projection refers (20-25 yrs). In this context three elements are very important:

- a) **firm political will** to carry out reforms and constant insistence on their continuation and recurrence. Higher costs and failures are to be expected so higher funds and intensive efforts must be invested, and more institutions and standards created than would be necessary in recurrent situations of a traditional and conservative society.
- b) the establishment of **institutions** responsible for the continuity, preparedness and expert development of administrative reforms, and
- c) an appropriate **time sequence of activities**, not forgetting that reforms should not be implemented before the impact is assessed, people prepared and the substitution of inadequate institutions, staff or administrative policies are in place.

The probability of success will be higher if the four following additional requirements are observed⁵:

- d) Reform of public administration impact society as a whole and all its sectors. Hence the need to turn the strategy into a national program of activities relating to public administration reform. This means that **the body** charged with its implementation **must be**

³ White Paper: Reforming the Commission, Brussels, 05.04.2000; White Paper: Public Administration Action Plan, <http://europa.eu.int/comm/reform>

⁵ See: Strategy of Public Administration reform in the Slovak Republic, 23 -24.

adequately authoritative and politically powerful to ensure systematic and continuous implementation of the necessary measures.

e) The reform of public administration is in the general interest of all citizens. **Political consensus** regarding general strategic objectives must be the framework within which the parties struggle for their interest in an atmosphere of democratic competition and responsibility towards citizens, voters who will thus be able to evaluate the parties and their representatives appropriately.

f) Observance of legality also implies **the observance of international obligations and standards** with legislation and practice in line with the aforesaid tendencies of European integration.

g) Support of the reforms is not based solely on the support of a political elite and formal holders of the highest offices, but primarily on **the support and understanding of citizens** and expert public. Such support will be achieved only by a clear and sincere exposition of aims and accompanying difficulties. Reforms will require substantial means and effort, cause occasional resistance and will be objectively taxing for individual groups.⁶

CENTRAL ADMINISTRATION AND LOCAL SELF-GOVERNMENT: DECENTRALIZATION AND DEMOCRATIZATION

Modern societies assume that public administration is a society service which operates according to its internal performance criteria, which is rational and professional, stable and socially responsible. Croatian citizens believe that Croatian public administration does not meet these criteria. According to them it is alienated, formal, corrupt and constantly criticized by the media. It is not experienced as professional or impartial but affected by all sorts of personal connections and friendly favors. It is also very expensive. Public servants are not employed according to professional qualifications and consequently are not promoted according to their expertise or performance.

We were very careful in the choice of words when pointing to the original problem: the perception of administration problems is one-sided, and the prescriptions that follow are therefore very simple. Analyses or relevant data are non-existent. Systematized experience of a reform sequence or political changes is not utilized and it seems that every new reform starts from scratch. Administration must be brought closer to the citizens, it must be made more open, client friendly and responsible. Selection and promotion must be adjusted to the needs of stability and professionalism. Administration is never too expensive if efficient. Payment must be proportionate to responsibility. Organization must be simplified and coordinated. Computerization is of great help in this respect.

⁶ It is usual (in Croatia) to state in explanatory notes regarding law drafts, including the most recent ones, that "the law will not result in additional costs for the state budget". The reality is different. High material, social and psychological costs must be taken into account.

This introduction is just to focus on the correction of two basic characteristics of the present situation: democratization and decentralization of administration. Before proposing measures we would mention a few words about basic problems regarding central and local administration and self-government in the Republic of Croatia.

1. CENTRAL ADMINISTRATION IN CROATIA⁷

Central state administration in the Republic of Croatia is regulated under the Law on the System of State Administration (Narodne novine (Official Gazette) No 75/93), the Law on the Government of the Republic of Croatia (Narodne novine (Official Gazette) Nos 101/98 and 15/00), the Law on the Organization and Competence of Ministries and State Administrative Organizations (Narodne novine (Official Gazette) Nos 48/99 and 15/00), the Act on Civic Servants and Employees and Salaries of the Judiciary (Narodne novine (Official Gazette) Nos 74/94, 86/94 and 7/95), as well as other special laws and secondary legislation regulating specific areas of the state administration bodies.

The system of state administration includes administrative bodies and organizations directed and coordinated directly by the Government of the Republic of Croatia, as the highest state political and administrative body, and which are, either through the Government or directly, associated with the highest bodies of political power in the state – the Parliament and the President of the Republic of Croatia.

The state administrative bodies in Croatia are ministries, state administrative organizations and county offices or the city offices of the City of Zagreb.

The duties of the state administrative bodies relate to the direct execution of laws and issuance of regulations for the enforcement thereof, the carrying out of administrative surveillance and other such administrative or expert duties. The duties of the state administration may be transferred to the units of local self-government and legal entities which are outside the framework of the state system and who have been entrusted with public authority. The state administration is financed from the State Budget which is passed by the Croatian Parliament every year.

1.1. Central administration in Croatia: functions

In the administrative system of the Republic of Croatia, as for that matter in the administrative systems of other countries, three basic influences are present: the country's own

⁷ Prepared on the basis of the study written by Teodor Antić, MSc and subsequently supplemented by J.Kregar.

tradition, models of other systems selected as a model, and some objective factors (the extent of social development and other).

The present state administration of the Republic of Croatia with regard to administrative departments and functions may be classified as follows:

1. traditional departments of state administration: Defense, Interior Affairs, Foreign Affairs, Justice and Administration, and Finances,
2. economic departments: Economy, Agriculture and Forestry, Crafts and Trades, Small and Medium Size Entrepreneurship and Tourism,
3. technical services: Maritime Affairs, Transport and Communications, and Science and Technology,
4. municipal services: Environmental Protection and Physical Planning, Public Works, Reconstruction and Construction,
5. social services: Culture, Sport and Education, Labor and Social Welfare and Health Care,
6. special departments: Care for Croatian Veterans Fighting in the Homeland War, and the Association for European Integration.

Depending on the respective department, all or the most of the duties discharged within the said departments arise from the competence of the state administration and such duties are carried out by the state administrative bodies.

Duties of the state administration carried out by each state administrative body are as follows:

1. direct application of laws and such other regulations:
 - a) decisions in administrative matters,
 - b) maintenance of prescribed registers and the issuance of certificates and such other attestations,
 - c) execution of other administrative and technical matters;
2. setting out detailed regulations (rules of procedure, ordinances and instructions);
3. carrying out administrative supervision;
4. other administrative and technical matters:
 - a) monitoring the state of affairs,
 - b) drafting regulation proposals,
 - c) other expert matters.

In the framework of the above mentioned departments and groups of duties, in perspective there are many tasks that may be excluded from the state administration and entrusted to regional and local self-government or some other institutions outside the state system. It would be advisable to transfer to regional and local self-government units decisions in some administrative matters (such as the issuance of building permits and other) and the maintenance of stipulated registers (such as birth/marriage/death registers). In such a way administrative matters would to a certain extent be brought closer to the public,

while the state administrative system would be reduced and disencumbered.

1.2. The structure of central administration in Croatia

The system of state administration in the Republic of Croatia includes the bodies of state administration directly governed and concerted by the Government of the Republic of Croatia as the highest state political and administrative body. State administrative bodies at the state level are ministries (19) and state administrative organizations (8). Their internal organization is regulated by regulations issued by the Government and rules on internal order issued by the heads of their appropriate bodies. Ministries and state administrative bodies may establish regional units at local level. State administrative bodies at local level are county offices and the city offices of the City of Zagreb (9-11, depending on the county). County offices may in some towns have branch offices. County offices are established under Government regulation.

Ministries are: Ministry of Finance; Ministry of Economy; Ministry of Croatian Veterans from the Homeland War; Ministry of Culture; Ministry of Defense; Ministry of Agriculture and Forestry; Ministry of Justice, Administration and Local Self-Government; Ministry of Education and Sport; Ministry of Labor and Social Welfare; Ministry of Maritime Affairs, Transport and Communications; Ministry of Tourism; Ministry of the Interior; Ministry of Foreign Affairs; Ministry of European Integration; Ministry of Public Works, Reconstruction and Construction; Ministry of Trades, Small and Medium Sized Enterprises, Ministry of Environmental Protection and Zoning; Ministry of Health, Ministry of Science and Technology. The Ministries also include nine organizations (institutes, directorates, financial police, inspectorates, academies). Also, an independent status is enjoyed by state administrative agencies: offices, institutions, directorates (8).

In addition the Government has five coordinating bodies (for crime prevention and reduction in the economic sector; for social services and human rights; for the economy; for internal and foreign affairs; for special care areas). Other standing bodies are the Administrative Commission and the Personnel Commission and the office of the Prime Minister. Other offices, agencies, centers and directorates are also established alongside the Government (26 bodies). There are also some *ad hoc* working bodies (12) and committees (6). The Government also directly supervises the operation of most of the agencies and major companies while ministers coordinate and supervise the operation of most of the institutions and companies.

Even a glimpse at these basic data regarding the organization of state administration in the Republic of Croatia shows that the system is highly centralized and huge which makes it inflexible and hard to adapt to the new roles and tasks with which it is faced.

1.2.1. Coordination problem

This complex organizational structure creates problems of coordination between activities and bodies. All the more so as there is intensive normative activity in the preparation of legislative initiatives and the passage of other pieces of legislation, and difficulties regarding operative

coordination within the centralized system. The problem of coordination would seemingly be solved by cutting the number of ministries with which coordination would become an internal problem of integrated sectors. The problem is formidable at a general level as this is a classic issue of proportion and adjustment to circumstances. We may refer here to an earlier experience and a finding that has hardly lost its topicality. "In light of the given development of the central administration structure, we want to take a view regarding one of the basic issues in the area: should the central administration be concentrated within a smaller number of administrative bodies and organizations in comparison with the current ones. And next, we recommend a standard model of internal organization of the Republic's administrative body, which would, we believe, enhance efficiency and economy of operations.

The essential dilemma between **the concentration** of the Republic's administration within a small number of departments and its **free differentiation** into a larger number of bodies and organizations requires careful consideration of the reasons for and against.

The reasons for **the concentration**:

- expectations that in this way it will be easier to reduce the load of tasks of the Republic's administration and consequently the number of staff;
- easier coordination of the Republic's administration as a whole, as coordination is one of the open issues because one segment of coordination becomes an internal problem of such huge heterogeneous systems.

The reasons for **differentiation**:

- easier identification of tasks fully developed for a different organization, closer to a self-government organization of associated producers;
- easier identification of tasks where, within state administration, team work may also be introduced while abandoning the hierarchical system and the operation of mixed teams speeded up (expert, administrator, typist)
- the mitigation of "department imperialism" which emerges in large administrative organizations and which exerts pressure for further expansion thus imposing its views also upon political bodies "⁸

1.3. Central administration in Croatia: administrative staff

The tasks of the state administration in its relevant bodies are carried out by civic servants and employees. Civic servants carry out the tasks falling within the scope of their competence as prescribed by law and employees carry out the supporting and auxiliary tasks.

⁸ M. Ramljak, *Struktura republičke uprave u* (The Structure of the Republic's Administration in): S.Ivanišević, J.Kregar, Ž.Pavić, I.Perko-Šeparović, S.Petković, E.Pusić, M.Ramljak, I. Šimonović, *Uprava i društvo*, IDIS, Zagreb, 1989, 36.

The general criteria for admission into the civil service are: citizenship of the Republic of Croatia, a minimum age requirement, satisfactory state of health and appropriate qualifications, while special requirements are specified for specific job positions.

The job classification system covers the application related requirements and functions of civil servants as well as the job positions of employees. The job positions of civil servants are categorized into three groups depending on academic background, while the job positions of employees are categorized into four groups depending on professional background or training. The job positions of civil servants and employees are categorized into 26 wage brackets.

The system for promotion of civil servants is either automatic or depending on special circumstances although the automatic option prevails.

Salaries of public servants are calculated on the basis of a basic salary scale and if applicable a wage supplement. In addition to a salary, civic servants may receive different kinds of allowances (special work conditions, job related expenses and other).

Today the role of administrative staff is extremely important. For the administration to be successful it is not enough for the tasks to be performed with discipline and routine; the staff commitment and quality work should be aimed at. A modern, quality and active administrative system is the prerequisite for successful administrative performance. Therefore exceptional importance must be given to the employment of staff in administration.

It is clear that state administration to a certain extent must depend on political bodies and high officials of the state because only they have, according to the elections won, a legitimate mandate to take political decisions to be executed by the state administrative bodies. On the other hand, the administration in its operation must be sufficiently independent of such political bodies and officials in order to be able to function efficiently as a system according to criteria of expertise and economy.

Therefore it is imperative not to select administrative executives according to political criteria because an administration selected in such a manner will not be able to deal with the problems assigned to it.

1.3.1. Growth of administration

There are different data regarding the growth of administration in the period from 1990 to 2001. Statistical data are not reliable because of different category definitions and so inapplicable for longitudinal studies. Other data are not available. We will rely on the analytically processed data relating to employment in state administration⁹

Year	State Administration	State administration	State administration	Total western administration	% state administration
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⁹ Adjusted according to I.Koprić, G.Marčetić, Kriza socijalne države, reforme javne uprave i hrvatsko upravno osoblje (Crisis of a social state, reforms of public administration and Croatian civil servants and employees), Hrvatska javna uprava, 1, 2000, 25 -82.

	index	index	in RH 1000		
1990	53.653	100		1.529	2,84
1991	54.343	99	96	1.365	3,98
1992	46.856	87	86	1.589	2,95
1993	46.779	87	100	1.117	4,19
1994	44.507	83	95	1.065	4.18
1995	48.046	90	107	1.035	4.64
1996	45.516	85	94	1.027	4,43
1997	44.183	82	97	1.004	4,40
1998	45.659	85	103	1.006	4,54

According to the above data it seems that the administrative cadres have been reduced by 15% during the past 8 years. At the same time the total number of employees decreased which indicates not only that a relative share of employees in state administration increased but that the state administration is more stable and safe than any other job. Unfortunately such scarce data leaves little room for any substantiated conclusions. Statistical data, as exists, does not match any comparisons, probably because of the change in categories, however the differences are striking¹⁰, and also within the framework of the same sources¹¹ differences do exist. We have tried to make up for the unreliable data by using the same sources, however any detailed analysis would require independent research and data collection. For this reason we cannot compare the changes that have taken place in the categories such as academic background, work experience, fluctuation, the proportion of men and women, the rate of occupancy of job positions, previous employment, legal status and so on.

2. LOCAL ADMINISTRATION IN CROATIA¹²

Croatia inherited in the past a system of strong decentralization and a tradition of resistance to centralization. During the nineties such a tradition was abandoned. In order to ensure central control of the political administrative system during the war and avoid the establishment of autarchic

¹⁰ For example, (the bodies of state authority and local self-government) the differences are substantial for 1993 (104.356; Statistički ljetopis 1993, 82) and 1995 (105.821, Statistički ljetopis, 1995, 82)) although based on 1991 census when in a similar category there were 94 745 persons (Statistički ljetopis 1991, 105), to the situation that the data do not match the source that we respected (1998, state administration = 45.659, and 3.997 free lancers (!?) Statistički ljetopis 1999, 113). Monthly statistical bulletins do not give the number of the employed but the number of "active legal persons" in the category of state administration and mandatory insurance as 438, which is less than the number of local units.

¹¹ For example there is a statement "It may be said according to official statistical data for 1998 that in the military and police there were 72.421 employed persons which is as much as 7,20% of all the employed" (65 p.) while only four pages before a total number of the employed in the state administration is 45.659. I. Koprić, G. Marčetić, Kriza socijalne države, reforme javne uprave i hrvatsko upravno osoblje osoblje (Crisis of a social state, reforms of public administration and Croatian civil servants and employees), Hrvatska javna uprava, 1, 2000, 25 -82.

¹² Prepared on the basis of the study written by Teodor Antić, MSc and subsequently supplemented by J.Kregar.

municipalities, the result was the other extreme. An excessively decentralized system has been substituted by an excessively centralized system. Local self-government has been deprived of its competence, independence and financial means for independent initiatives. Municipalities and towns have become clients for central funds. A substantial shift of competences towards the state and centralized ministries has occurred. This reform was expensive and unsuccessful. The position of towns is particularly difficult; large towns lack the independence and funds to deal with the problems of infrastructure, transport, social services; medium size towns lack the funds to encourage the start up of small and medium sized enterprises or development of local utility services.

But most importantly, the funds have been centralized as well as the decisions on their allocation while local units have been left without abundant revenue sources. The most critical situation is in the sphere of education and health care, areas that have been completely centralized although they are usually the responsibility of local authorities.

The European policy of harmonized development of regions and respect for regional specificities is not only a political platform of regionalization, but is truly relevant for the technical operation of the governance system.

The current system of local self-government was established in 1992 when the Law on Local Self-Government and Administration was passed (Narodne novine (Official Gazette) No 90/92), and followed by the first local elections held according to the new law in 1993. In 1997 the next regular elections for the bodies of local self-government, whose term of office is still running were held. The next regular local elections will be held in May 2001.

The Republic of Croatia has ratified the European Charter on Local Self-Government and adopted a certain number of its provisions (The Law on Ratification of the European Charter on Local Self-Government, Narodne novine (Official Gazette) – international treaties 14/97).

However, the established system of local self-government has been so conceived to ensure centralized management of public matters.

Whilst a disproportionately large number of local self-government units and staff employed in their administrative bodies substantially affects public spending, the centralization of many administrative matters impedes the efficiency of local self-government bodies. In addition, the current system of financing local self-government units is extremely inadequate. It blocks the development of an efficient municipal infrastructure and fails to meet the basic needs of the citizens as regards health care, social welfare, employment, education, culture and environmental protection.

Hence a reform of the system of local and regional self-government must be one of the priorities within the framework of the internal policy of the Republic of Croatia with the aim of strengthening the system. Local self-government should also be both a substitute for the function of central authority and a kind of counter-balance to it. In other words this means that local self-government should be established in such a way that legitimate local interests are acknowledged and respected, as they may sometimes be different from those of the state, that the citizens participate more intensively in the process of decision making and identification of problems, that the citizens

also take responsibility in the execution of public matters, which would eventually reduce the concentration of central government political power.

2.1. The crisis of the system of local self-government

The Croatian system of local self-government is undergoing a serious financial, administrative and political crisis. A new legal framework for the operation of local self-government has just been adopted, however the decentralization problem is far from being resolved. The differentiation of competences between the state and self-government, the establishment and stabilization of institutions for political representation in local self-government, the executive aspect of local self-government and other such problems should be considered in the immediate and also long-term perspective.

2.1.1. Two steps of the reform

The political, technical and normative preparations for the local self-government are well underway. Amendments to the Law, a new law on local and regional self-government and the law on the election of representative bodies of local and regional self-government have been passed. Self-government is an important political issue and politicians could not afford to wait with proposals for the necessary changes, although crucial prerequisites for a through reform of local self-government have not been available. In any case, up to now every two or three years new reforms have been introduced so perhaps "the time is mature for another one". So it has been decided that the reform be implemented in two stages: first minimal interventions in institutions and the electoral system will be carried out while during the second stage more radical decentralization and the revitalization of local self-government institutions will be attempted.

2.1.2. Immediate changes

Characteristics of the first stage changes are:

- implementation of gradual reform without any radical interference with the competences of local and regional self-government bodies
- indirect pressure on local self-government to rationalize allocations of funds over the territory through financial measures and the definition of competences
- a definite abandonment of the view of local self-government as identical to the former (socialistic) system of local government, because any negative associations with the past will lead to discontinuity and voluntarism .¹³

¹³ Particularly important circumstances in 1993 was an effort to adjust local authority bodies to one of the proposals for a peaceful political solution of the war. Possible permanent hostilities had to be taken care of, particularly extremely serious ones in the case of the potentially hostile local authorities in the area of the then "Krajina". For example, a ruling on the dual loyalty of the prefect (župana) and the procedure of his confirmation by the President, instruments for solving hostilities through the Government, appointment of commissioners, supervision of

- the idea of exercising power is incompatible with local self-government. Governance instead of rule also includes **objectives** – instead of controlling the subjects, an active civic society is necessary, **and relationship** – instead of the limitation of central authority ("division of power", ceremony related activities: granting rewards, symbolic events etc.), the development of representative institutions and direct democracy.

- political consensus and compromise as methods of political preparation. In this context coming local elections should also be seen as a step forward in the creation of conditions for the reform. Electoral law has been adjusted to the needs of a political situation and its aim is to overcome political calculations aimed at an election victory.

- the impossibility to simulate, quantify or base the changes on positive insights. There are no technical or research based studies for the preparation of strategic decisions either for reform or for some palliative measures. There is no systematic monitoring of the key statistical data regarding costs, personnel or initiatives. No research whatsoever. No debate on alternatives.

- flexibility of the proposed solutions for the executive structures in local self-government. The former solution required an unnecessary unification of bodies, while the new one provides for a different number of representatives depending on the size of the local unit, and the introduction of a criterion for the size and form of the executive body according to the size of the local body. The stimulation of local self-government activities in order that they will be able to gain some independence and the possibility to earn and spend their own resources (legal entity Article 66)

- modification of competences will be carried out under special (sector related) laws. The scope of self-government includes matters relating to the development of settlements and housing, physical planning, municipal activities, children's care, social welfare, primary health care, primary education, cultural events, physical education and sport, protection of the consumer, protection of and improvement of the natural environment, fire prevention and civil defense. Special laws will regulate which specific tasks fall within the competence of a local unit and which tasks "a local unit may carry out provided that the resources thereof have been provided for (Article 19)?"

- the definition of scope is rather flexible. While due to the resistance to political influence at local level it was not possible to stipulate subsidiarity principle, a step forward has been made in this direction. The initiative has been taken and the autonomy of local and regional units has been strengthened. The defining of towns and municipalities, more detailed than before, will establish a clearer criterion for better differentiation and a semi-type (partial ?) model.

These objectives will be achieved by:

administration, were directly the result of fear that the local system might be blocked in its operation. The government, the then Government of national unity, hesitated, I believe with good reason, to introduce any radical. F. Tudman insisted on the reform as he wanted to strengthen the impact of central institutions and avoid the chaos of the institutions that emerged during the war (emergency centers and other)

- the establishment of new territorial organization to be based on rationality and respect of actual specificities and potential of local or regional self-government units,
- the widening of autonomous responsibilities of local units, and in particular their wider scope of self-government scope in large towns,
- a more rational and more appropriate to local circumstances internal organization of local and regional units,
- introduction of an electoral system which will focus on the nomination of candidates and which will be more appropriate to a type of a local unit,
- broadening of the types and forms of financing local units and strengthening their financial capacity,
- ensuring a higher degree of independence relative to central authority and administration, improving expertise and professionalism of local staff by adjusting their remuneration in line with that of civil servants, and by including the City of Zagreb into the system of regional and local self-government as an integral part,
- adequate supervision of the state bodies over local and regional units.

2.4. The City of Zagreb

The City of Zagreb was established, under the Constitution of the Republic of Croatia and a special law, as a separate and unique territorial and administrative entity with county status.

In practical terms this means that the City of Zagreb is exempt from the territorial organization of local self-government. In the City of Zagreb self-government and administration are established at the level of the city as a whole. Thus the governance of Zagreb follows the pattern of the state centralistic governance. A specificity of the Zagreb position lies in the fact that it directly reports to the central bodies of power and administration and consequently the President of the Republic must approve the Mayor.

As for the territorial aspect of the City of Zagreb and the regulations regarding its immediate neighborhood, attempts made so far to solve the problem by annexing neighboring areas (1992.-1995.) and domination within the Zagreb county (1995-1997) or the separation from neighboring areas and the solution of common issues through a parity representation in the council (since 1997) have not proven very successful.

In respect to the organization of local self-government in the Republic of Croatia, the position of the City of Zagreb should be regulated so that:

- the City of Zagreb is included in an overall system of local self-government or a system of towns, respectively, while taking account of its certain specific characteristics,
- the City of Zagreb is able to develop autonomously and build up its local self-government without state tutorship,
- the Zagreb metropolitan area is established by developing an adequate form of metropolitan administration which could be developed at several levels and would not be constrained by the present territorial partition, however by preserving a relatively high level of autonomy of the local units outside the city.

2.2.2. Reform risks

The reform as proposed and partly realized through the laws passed, carries a certain amount of risk because it was based on the assumption of a rational interest in the establishment of local units. Specifically, the number and borders of local units have remained unchanged and only time will show advantages and disadvantages of current territorial partitioning. Relatively large units have their advantages as higher potential and resources mean better opportunities for maintenance of administrative personnel, better selection of staff to be employed in local self-government, support of local activities. The success of local leadership is more attractive and visible and their responsibility greater. Pressure on central funds, the State Budget, and other resources of the authorities is reduced, the main danger being a relatively bigger gulf between citizens and administration. The following should be dealt with: a continuous shortage of funds for the operation of local self-government, the lack of initiatives and local activities, increased infrastructure costs (offices, cars) and salaries for the administrative staff. In addition, the number of employees has rocketed which unfortunately not

improved the quality of service to citizens or their involvement in or sharing of responsibility. The operation of local self-government bodies is sluggish, inflexible and potentially dangerous for local democracy. Local self-government should be flexible, independent, simply structured and open to volunteer contribution. Currently the situation in Croatia is just the opposite. Independence has been substituted by the dependence upon centrally taken decisions or assistance. Clientelism has taken root. Volunteering is more an exception than the rule and often a local budget is overspent as everything has to be paid for or professionals are contracted without consideration of available funds. Every municipality wants to employ its own staff, equipment and other facilities. Every town imitates a larger one. Sound profit considerations or frugality are rare.

Thus the subjective interests of the local units as a motive for integration should be taken with a grain of salt. Even a former law provided for associations, the establishment of common bodies for several units. However, in practice this was not often the case. Moreover, exemptions were caused by special circumstances or strong political reasons (islands, Eastern Slavonia). The very fact that municipalities are too small, the towns too many or that the scope of work and financing of local units encourages integration into broader units is not sufficient for it to happen. In political decision-making there is a certain extent of irrationality (e.g. resistance to losing the status of a town, as in the case of Vukovar) so solutions are supported regardless of their not being optimal. Furthermore, the existing institutional structure has caused a constellation of interests and interest groups, which are against integration and which prefer the status quo although they do not hesitate to transfer financial burdens onto citizens or central sources of finance.

This is the potential background for future voluntarism as everything does not depend on sheer political will. We can only indiscriminately make a guess and say that there are too many municipalities (and what to do about it!?), that the position of towns has not been properly dealt with (which are those towns?), or use completely preposterous clichés and say that centralism has taken ground, and that the decentralization is what we actually need because this will turn the pendulum of changes in the opposite direction. It is also often said that funds are short, however nobody says what they have been spent on or, even more importantly, how they should have been spent. On the other hand, there are many of those who like it this way and who resist any changes.

2.2.3. Long-term tasks

In the long run the problem in local self-government may be defined through three basic long-term issues:

Problem of size

The territorial organization of the Republic of Croatia, or more precisely, political territorial partitioning does not meet the requirements for a rational governance of a state. The number of units is too large and their distribution instead of matching clear and logical principles, is the result of an arbitrary interpretation of laws or inadequate grounds for a decision. The inherited problem which is to be solved by the reform of local self-government is the problem of the size of local units, and

related to that the problem of regional intermediate administrative level. Former municipalities up to 1993 were definitely too large. The then a hundred municipalities had on average 45.000 inhabitants and spread over 450 square kilometers. In drafting the 1992 reform, doubling of municipalities was under consideration in addition to a new type of local unit, the town. According to such a view there would be about 200 municipalities and about 16 towns. Roughly considered the town had to have no less than 15.000 inhabitants and a municipality no less than 10.000, however a later addition was that exceptionally it may have less than 4.500 (islands, historical towns). The outcome was completely different.

The number of municipalities in Croatia

Year	Total	Towns	No of municipalities
1976	112		112
1978	113		113
1985	115		115
1990	102		102
1993	559	70	489
1995	499	75	424
1997	538	122	416
1998	543	123	420

Now¹⁴ there are about 123 towns and 420 municipalities, 543 local units, at least three times over the number according to which the model for institutions and scope of local self-government was conceived. The average size of a municipality in 1995 was 4.694 inhabitants although there were 76.54% of municipalities with fewer than 6.000 inhabitants. As many as 59 municipalities at that time had fewer than 2.000 inhabitants. Since the time of statistical result the number of town has been on increase so the size of the average municipality fell to a population of 2.400 inhabitants. The average number of inhabitants in a town was 40.247, however “the average” does not show the extremes: 48.47% of the urban population live in only four towns, or 64.21% of the town population of Croatia live in 11 major towns. In 1995 only four town had fewer than 5.000 inhabitants, and this figure today is (before the census) about 20. The true data will be available after the census results are known although the situation is quite clear with the results available now.

¹⁴ For the sake of comparison in 1886 in Croatia there were 8 counties, 14 cantons, 35 districts and 88 municipalities; in 1941 there were 22 counties, 141 districts, 30 towns and 1006 municipalities; in 1952 there were 89 districts, 7 towns and 737 municipalities; in 1961 there were 27 districts and 244 municipalities, and in 1962 there were 9 districts and 111 municipalities.

According to the legal provisions regulating internal organization of local and regional self-government units the bodies of the units are structured in the same manner regardless of a type and size. This organization reflects in fact the state organization.

Such solutions are impractical and not cost-effective. The decisions that the units are allowed to make depends on the number of employees within the framework prescribed. Hence some modifications in the organization of local and regional self-government units is necessary so as to make the organization of the executive staff more rational to enable them to execute their duties in a more efficient way.

To this end it is necessary to gradually introduce certain changes according to the following guidelines:

- reduce the number of small unit local bodies (e.g. in units up to X inhabitants reduce the staff to the council and the mayor),
- apply political criteria only to the highest level of decision-making, and entrust highly qualified experts with the executive functions up to the very high positions in the hierarchy,
- ensure a higher level of freedom of choice to the local units regarding possible variants as to the organization of their bodies,
- provide for a more flexible approach regarding the structure of executive bodies of local self-government (e.g. the introduction of a system of a local manager in all or some types of local units),
- consider the possibility of lowering a level of unification at a regional level,
- limit the number of employees in a local unit depending on the size of unit,
- separate the dual responsibility of a prefect (župan) who is both a self-government and state official, and establish him/her solely as self-government regional official and holder of executive power in a county while his/her present role as an official of the state authority in a county should be transferred to a relevant state administrative official.

An increase in size of municipalities and towns will open up the problem of a county organization in Croatia. The decentralization of local units has a very clear political and administrative impact.

The impact of decentralization

In a political sense the intention of decentralization means the approximation of decision-making closer to the citizens and in an administrative sense the approximation to the beneficiaries of the system. The tradition of local self-government in Croatia indicates that the high level of centralization that occurred in the nineties is an exception that also occurred after WWII, for very similar reasons relating to reconstruction and construction. However, the values and perception of desirable institutional arrangements in practice die hard. The values embodied in (socialistic) system of local government regardless of the slight ideological covering up which has not been difficult to

discard, convey strongly rooted views regarding the need for powerful local independence, participation in local matters, even a certain degree of autarchy as a result of a negative perception of the central authority which is viewed as distant and impersonal, only a potential source of resources and power. The pronounced patriotic charge during the creation of the national state has changed relatively very little in such a perception. As for a political distribution of influence, the great expectations do not match the actual situation. In former times expectations were focused towards unofficial bodies of a monopolistic party, the mayor or later the president of the executive council, with the continuity of a presidential system. After the independence of Croatia was achieved, the encouragement of democratic participation were focused on activities through political parties, and consequently the established slogans have substantially changed; unfortunately not the concentration of power in municipalities and towns which is narrowed down to to a very small group of local top officials, regardless of whether their formal activities are connected with emergency centers, the mayor's function, a special relationship with political power or economic power centers. The main political impact of such personalization cuts across institutions.

The idea of a dynamic local scene is not sheer utopia. A comparative overview shows that the more developed democracies stabilized the institutions of local democracy and imbued them with real substance. Direct participation of citizens in the decision-making process and appropriate political representation are prerequisites for rational governance and overcoming of a "ruling philosophy" in local self-government. Naturally it is not possible to achieve results only by imitation of structures or bodies. Without institutional support to the ideas of democratic relations in local units results cannot be achieved. The supremacy of competence of local self-government and the adoption of subsidiarity principle in perspective, should mean a higher level of autonomy in determining the organization of institutions within local self-government units. Firstly, the uniformity of relations and structures is no longer an advantage as it was during the creation of modern national states, but more of a handicap whereby tribute is paid to tradition and custom. A higher level of autonomy does not necessarily mean non-transparency of structures and relations, as in these times of globalization the institutional form of operation is all-pervasive, but the possibility to rationalize the organization of local self-government in accordance with local situation and expectations.

System of supervision

The law on local self-government and administration regulates that the supervision of the legality of work and general acts issued by the representative bodies of local self-government units within the scope of their jurisdiction, is carried out by the bodies of central state administration, each within its scope of activities.

At the proposal of the Ministry of Justice and Local Self-Government and Administration the Government in certain situations may or must dismiss the representative body. While the described supervisory system over local self-government was designed to enable centralistic governance of public matters, in practice it is very complicated and quite inefficient.

The supervision must ensure more freedom of operation in local self-government and at the same time deter unlawfulness and other unacceptable types of conduct (autocracy, abuse of power and other).

The supervisory system should be established in such a manner as to be able to protect local self-government from unjustified intervention of the state bodies and the rights of citizens relative to the local self-government bodies.

In order to achieve such goals the sphere should be organized according to the following guidelines:

- administrative supervision of pieces of legislation issued by local self-government units within the scope of their respective competence may include the supervision of lawfulness and only in the case of tasks transferred to local self-government units to be carried out, the supervision may include also the expedience,
- the authority of the central state administrative bodies entrusted with the supervision of local self-government and the measures to be taken, must be clearly defined,
- the possibility of a dismissal of the representative body by the Government should be reduced to a minimum, with the precisely defined conditions and reasons for a dismissal.

Globalization

Globalization is to a certain extent a process inconsistent with local self-government. Globalization does not relate only to those aspects that can be measured, monitored or clearly explained. Globalization is not speeding up of the exchange or the world market. "Globalization means the intensification of human relations on a worldwide scale, in such a manner that the events and individual developments in distant locations influence each other. This is **the process of reduction of spatial and time factors** which limit the activities of societies. The result is **a higher perception of the world as whole**, and the adjustment of social thinking and action through a national framework and towards international and global spheres".¹⁵ The growth and improvement of computerization and telecommunications is a central impetus to globalization: information regardless of its contents flows freely and rapidly and in such a speedy rhythm lies a true global perspective. "Global society is cosmopolitan and it arises from the mixture of economic, technological and cultural imperatives. Institutions such as a nation, family, job, tradition, nature seem to have remained unchanged, however while the outer shell remains the inside is completely different and has become "the shell of an institution". We must reconstruct the institutions we have or create new ones, in the manner compatible to the age of globalization.¹⁶

Local communities, towns and regions do not any longer require the mediation of national states. Some towns are larger than some national countries such as Croatia. Towns such as Tokyo

¹⁵ <http://www.lse.ac.uk/Giddens/2000/FAQs.htm>

¹⁶ <http://www.lse.ac.uk/Giddens/2000/FAQs.htm>

with a population of 28 million (Mexico City 18.1; Sao Paolo 17.7; New York 16.6)¹⁷ are only the beginning as within the next ten years 22 cities will have over 10 million inhabitants. Regional identity and European integration go hand in hand. The issues pertaining to the tasks of local self-government units, the identification of a local community and institutions trying to link a whole range of different activities, are viewed in a completely different light. As Pusić says: "All the governments in the developed countries take account of a new situation which has emerged as a result of globalization and try to adapt their structures and methods to the situation ... Guidelines for the future development of public administration encompass the limitations of the overall administrative sector, further privatization, commercialization (transformation of public bodies into companies formally levelled with economic companies), a further transfer of power to local and regional institutions, the introduction of market-related mechanisms into public administration, the restricted role of the central state administrative bodies, the introduction of systematic planning processes and the development of programmes in politics, systematic control of performance, restructuring of finances and human resources policy, new principles and methods for the passage of subordinate legislation, improved relations with the citizens and companies, full use of information technology"¹⁸

2.2.4. Regionalization in the system of governance

Regionalization is a specific issue in Croatia. Croatia has clearly defined regions, cultural identification with a region and also political regional movements. The plotting of county borders disregarded such requirements. The number of counties is at present larger than the number of macro regions. Regional specificities are not only the result of historic and cultural identifications, but also of some actual differences in interests, economic structure and the level of development.

CIVIC SOCIETY¹⁹

The term civic society refers to voluntary organizations and associations, unofficial networks of organized individuals involved in public activities. Civic society, unlike the traditional state is based on the principle of voluntariness, and is unlike private business by the fact that in the market of goods and ideas, the interests are not designed according to private interests but according to public welfare and the interests of the community. The idea of a civic society is that the state, which is not

¹⁷ <http://www.prb.org>

¹⁸ E.Pusić, *Država i državna uprava*, School of Law, Zagreb, 1999, 273 pp.

any more only coercion, imposition of taxes and the guarantee of order, becomes not just the state of public administration but that in the interest of efficiency and democratic control it be substituted by complex structures of civic society. Civic society begins when hierarchy and bureaucracy cease to exist, when morality is integrated into the substance of law or, without trying to sound pathetic, when the logic of statism fails. Civic society embodies the whole range of voluntary organizations: social movements, church, trade unions, professional associations, humanitarian organizations, interest groups. The sphere of civic society will also include universities, municipal corporations, and associations of citizens as well as cooperative and economic associations.

1. The importance of civic society

The development of the civic society (the non-profit sector, non-governmental organizations, associations, foundations) increasingly becomes the framework for the solution of numerous problems in modern societies. It is true that civic, non-governmental initiatives provide for new forms of community development and the return to the forms of local democracy. They promote the subsidiarity principle as a form of just autonomy. Civic society has a mediating role, and is very important in promoting the process of social integration and cohesion in order to enable the development of partnerships and the rebuilding of local communities in a completely new way, different from any previous one. In addition to market and public power there is “the third sector”, the social sphere outside the market logic and the logics of power which, before the reign of statism and industrialism, was a strong support of society. The idea is that the public be not a synonym for coercive and bureaucratic, or the voluntary a synonym for the privatized and commercialized. Statism and capitalism pushed back the domain of family life and community and freedom of association towards the non-material and, for the common good, the association, the main reason not being a rational calculation of profit or law-abidingness.

The role of the state, as contemplated here, differs from the traditional one: in our view the state should not be a source of bureaucratic legislation but means for enabling easier coordination of all the elements of civic society. Such a state would instigate those forms of association that would aim at the achievement of interests which are not consumer’s or the interests of the citizen, the client. Partnership between the state and the civic society strengthens and reinvigorates democracy, deters the risk of totalitarianism and charismatic experiments, rediscovers the benefits of decentralization and local communities, and encourages social entrepreneurship and self-employment.

The studies show that a developed civic sector is extremely important for the efficiency of the state administration, in particular at the local level. Development of civic society means self-organization of society bottom-up. It also means an additional mobilization of local resources.

2. Civic society in Croatia

¹⁹ Based on the study prepared by Prof.dr.sc. Gojko Bežovan

In Croatia there is a relatively large number, a little bit more than 20.000, of organizations of civic society (associations, foundations and private institutions). The development of civic society during the past ten years was accompanied by a certain degree of political distrust and a restrictive legal and tax framework. In such a context the views in the civic society organizations developed around actions aimed at “against”. Therefore, average citizens make hardly any distinction between the civic society and its activities and political parties. The civic society should achieve distinction by activities aimed at "for". The adopted Program of Cooperation agreed between the Government of the Republic of Croatia and the non-profit, non-governmental sector in the Republic of Croatia, might yield new initiatives for the development of civic society and consequently better cooperation with the state administration. Some policy documents (environmental protection, employment, social welfare, anti-corruption campaign) adopted by the Croatian Parliament point out the importance of civic society, non-governmental organizations, thus affecting their development.

According to the results obtained, towns in Croatia finance primarily associations in the fields of sport, culture, social welfare (mostly Red Cross, Homeland War victims), fire brigades, war veterans and military volunteers. Other areas, in terms of the amount of grants awarded, are hardly worth mentioning. The impediments to the development of civic society include the very low level of citizen participation and the material hardship of the middle class. Citizens have no experience whatsoever in establishing self-organized institutions or in influencing decision-making. The state administration is very suspicious of civic initiatives. Civic society is inadequately represented in the media. Through the Croatian Association of Towns and Municipalities, it should be recommended that larger towns extend financial support to civic organizations. The towns should develop their own policy regarding the support of groups of associations and their partnership. The resources for the programs of the associations should be projected in the budgets.

The potential benefits from the development of civic society in Croatia and the potential cooperation with the state administration are very important in terms of: social capital, social entrepreneurship, development of social innovations, development of a combined model of social policy, development of new social infrastructure and the participation of citizens.

The system for granting support to associations from the State budget or from the budgets of units of self-government should be thoroughly examined. Non-profit organizations should be provided with better opportunities to participate in the program preparation processes, particularly those relating to local policies in various fields and participation in the decision-making process. Non-governmental organizations should enter more intensively into agreements with local authorities for the provision of special services or the implementation of special programs. The system of social welfare should be decentralized and the units of local self-government entrusted with more significant tasks. Thus they would be much more interested in cooperating with non-governmental organizations in the provision of public services (social entrepreneurship). The Law on Foundations and Endowed

Institutions should be amended²⁰. In this context the foundations of local communities should be given appropriate consideration.

A great number of civic organizations function on a voluntary basis, and their programs are focused on advocating the values or interests of specific groups. The units of local self-government should be open to cooperation so that these organizations could enhance the solutions of problems in the community. Such cooperation would be linked closely to citizen participation in social and political processes.

Civic society in Croatia is still in its early stage of development. It is characterized by a very low level of civic awareness: there are only a small number of citizens in civic organizations, volunteering and giving for generally useful causes. Civic society has no tradition in Croatian society and in this context its legitimacy might be questionable. The cooperation between administration and civic organizations is at a very low level. Administration is very suspicious of any civic initiative. The current relationship is mostly confined to the provision of financial resources to the NGOs. The partnership between the public service and civil organizations remains a great unknown. Mixed – civic and public – governance bodies are still relatively rare. However, it is encouraging that the number of representatives of civic societies on various committees established for very relevant social issues is on the increase.

3. Perspective of the civic society in Croatia

Basic requirements regarding the protagonists of changes aimed at the promotion of the role of civic society:

- Avoid the risk to the development of civil society posed by excessive involvement of the state, the development of civic society in a top-down manner (related to this is the problem of the role of foreign organizations). It might be risky to launch a partnership program for the development of civic society on the basis of an unrealistic assumption of its being developed in Croatia.

- Any increasing benevolence and openness, particularly of the units of local self-government, towards civic organizations should be made use of, particularly in the decision-making process. In this context, special attention should be paid to the provision of public services at the local level. To this end it is necessary to build up the partnership between civic sector, state administration and companies.

- Civic society plays an important role in the development of responsible and efficient institutions, in this particular case, public administration, and has a very important role in anti-corruption campaigns in such institutions.

- The legal framework for the development of civic society, particularly the policy framework, should be transparent. Bottom-up ideas for ways to influence decision-making should be put forward. A transparent system for the provision of financial support to civic organizations should be elaborated.

²⁰ Among central European countries in transition the number of the foundations established is the lowest in Croatia.

- Make use of the coming CARD program in order to learn from foreign experience and get some material and other technical assistance. Representatives of the state administration should be trained to be able to operate efficiently in this field.

- In Government programs for fields such as social welfare, environmental protection, education, employment and other, the need for partnerships between civic organizations and the state administration must always be pointed out.

- In developing civic culture as a pluralistic culture founded on communication and persuasion, a culture of consensus and diversity should be encouraged.

Encouraging the creation of a strong civic society is part of the strategy to rely on innovation and the independence of the individual. Thousands of associations build up and represent the interests of special groups and take over the burden of the task for public benefit (non-profit organizations, organizations for public benefit, NGOs). “Today a view prevails that modern governing requires new forms of cooperation between a political system and civic society, in other words a new division of labor between the state and other social protagonists by acting as a broker, facilitating, inspiring and monitoring. Devolution of power seems to a certain extent a functional necessity in current complex post-industrial society”.²¹

FINANCING OF PUBLIC ADMINISTRATION²²

Good financial policy and a regulated and efficient financial administration are basic prerequisites for the development of any country. The GDP in Croatia is about US\$20.2 billion or US\$4.843 per capita per year, thus ranking Croatia as a partially developed country. Developing countries need well-developed budget institutions managed by competent individuals directed by proper incentives. The goals of the individuals managing public institutions must be the same as the goals of the institutions which in turn must be in consonance with the public interest. Such institutions do not emerge overnight. They must be built or reformed on a permanent basis.

Macroeconomic stability and appropriate economic policies are prerequisites for the operation of the economy and for sustaining the development programs of the country, in particular the long-term ones. As regards financing, modernization must lead to very tangible practical results. While the state must perform its basic functions regarding security, the administration of justice, education and health care, and prepare social programs and enhance structural reforms and capital construction and other, it must perform these functions so as to optimize material expenses. Economic analyses show that the tax burden is excessive. What interests us here is the issue of financing from the public administration perspective. Hence: what are the costs of the administration, are the funds spent rationally, are funding decisions transparent, how can the system of public revenue and expenditure management be assessed?

²¹ T.Meyer, *The Third Way at the Crossroads*, *Internationale Politik und Gesellschaft*, 3, 1999, 299 pp.

²² Prepared on the basis of the study written by Dr.Sc. Hrvoje Arbutina

1. Reforms of the financing system

Attempts at reforming the financing system are as numerous as the public administration reforms. Since the independence of the Republic of Croatia a substantial centralization of State Budget funds has occurred. This change is related to the general centralization of the state and may be considered a reaction to a high degree of decentralization during the socialistic times. In those times local units enjoyed a high level of independence, in other words relatively high competences and sources of financing. A great deal of money for public needs, both at state and local levels, was then provided from extra-budgetary institutions or self-management communities of interest. In the new system the decentralized level of government lost in importance while the role of the central state and consequently the State Budget was reinforced. The reasons may be partly found in unforeseen circumstances (the war and its consequences) that occurred in Croatia. However, the main reason is the type and characteristics of the authorities that developed during the nineties. The political elite of the time treated the state budget and the state finances as the principal mechanism for allocating funds according to the principle of **a strong and big country** with powerful defensive (and repressive) machinery, clear goals for social peace, and maintaining the support (and privileged status) of the social strata and territories on which the authorities relied.

The Act on the State Budget was passed in 1994 and amended several times, the last time in the year 2000. It is a very complex document drafted according to the IMF model. On the other hand the financing of local self-government has been regulated by a special law. A great deal of subordinate legislation regulates issues like the execution of the budget, keeping records and control, the usage criteria, reporting on usage and the like. A general financing characteristic is **the basing of financing on cash payments, and overlaps of non-aligned systems** ("decentralized" budget funds in the ministries) **of budget execution and control**. The reform of the whole system is underway with the aim of its improvement.

The main disputed points are:

- the size of the state budget exceeds a level commensurate with economic capabilities.
- the internal structure of the funds allocation is inadequate
- the approach to the budget preparation has not changed; there is no **transparency**
- an appropriate system of **financial control** is nonexistent and the level of the gray economy is too great.
- there is no internal control on funds management
- there are no clear criteria for measuring performance of the programs and their costs
- the role of expert financial institutions independent of the Ministry of Finance is marginal, as is the participation of experts and citizens in general
- the high level of revenue centralization and also of **the reallocation** to local self-government units

- **instability**, as budget receipts in the past years depended on foreign borrowing, the sale of public companies and the like.

1.1. The size of public spending

Public spending in Croatia relative to GDP is **too big**. Moreover, it shows an **increasing tendency**. In respect to GDP of HRK134.500.000.000, this amounts to HRK74.941.000.000, or 55.71%.²³ However, public spending is high also in other countries (Sweden 63.3; Finland 56.1; France 53.6; Belgium 53.6; Austria 50.7; Germany 49.5 %) which is a sign of political attempts to minimize social risks and the high level of social rights in these countries. The budget share of GDP is on the increase.

Table 3.2. Croatia: The share of public spending and public revenues in GDP²⁴

	1994	1995	1996	1997	1998	1999
Gross domestic product	87.441	98.382	107.255	119.053	137.4500	151.3
Public revenues	40.194	48.140	54.385	59.560	74.941	81.74
Public revenue index	100	120	135	148	187	207
Public / GDP	45,97	48,22	50,71	50,04	55,71	55,71
State Budget/GDP	26,47	28,34	29,25	28,43	32,17	32,17

Regardless of the precision or correctness of statistical data regarding GDP it is obvious that **the state budget is on an increasing tendency**. Total budgetary revenues are constantly on the increase. If we look only at official comparative data (plan 1999/plan 1998), the increase does not seem to be remarkable, only 9.98%. However, if we compare 1997 with the 1998 and 1999 plans, then the increase is quite substantial 31.76% (1998/97) and 44,91% (1999/97).

1.2. Problem of the spending structure

The internal structure of the funds allocation is not satisfactory as it is not clearly related to measures of economic policies and projections. The initiative of the Government to base the budgetary value on a three-year projection is an obvious attempt to rectify such dysfunctions. **Current expenditures** are the highest item of the Budget. According to the IJF data they make up to

²³ J.Šimović Neka obilježja sustava financiranja javnih potreba u Republici Hrvatskoj, (Some Characteristics of the System of Financing Public Needs in Croatia) Hrvatska javna uprava, 1, 1999, 3, 417.

²⁴ J.Šimović Neka obilježja sustava financiranja javnih potreba (Some Characteristics of the System of Financing Public Needs in Croatia), Hrvatska javna uprava, 1, 1999, 3, 417.

84.49% of total expenditures in 1997, 79.94% in 1998 and 79.96% in 1999²⁵. The analysis by year shows that just in the category of current expenditures the highest increases, e.g. in 1997 and 1999 were 32.60%. For the most part current expenditures cover **the expenditures for employees**, hence salaries, reimbursement of costs, the costs for MPs and members of state bodies, and grants. In 1997 such expenditures amounted to 11.000.000.000 or 31.54 % of the state budget. This is four times the total funds of local self-government. In the following years the increasing trend continued: in 1998 the amount was almost HRK13 billion (28.9%), and in 1999 it was HRK14 billion (**29.94%**) **Foreign expenditure** constituted 19.6% of the overall expenditure in 1997, 17.99% in 1998 and 12.17% in 1999. This refers to **interest servicing** and foreign debt servicing and the costs of money transfers. In 1997 and 1998 more than 50% of the State Budget was spent on **debt servicing and general public services**. In the years 1999 and 2000 this percentage slightly declined (46%)

The expenditure concentration is very high. 12 beneficiaries receive 90% of the overall budgetary expenditure. The remaining 32 beneficiaries receive 10% of the budgetary expenditure. Three ministries directly spend or directly manage 37% of the funds: the Ministry of Finances, the Ministry of Defense and the Ministry of the Interior. The Ministry of Finance accounts for 20% of the overall expenditure. Such a great involvement of the Ministry of Finance in the Budget is the consequence of the fact that this Ministry handles all the matters relating to public debt, debt interest repayment, transfers to local self-government and the like. By functional classification the largest item is for **defense matters** (34.81% in 1995; 20.33% in 1997) and **public order and security** (12.12%). While defense costs decline annually by around 15%, the costs for security are pretty much the same.

All the expenditures spent through the Ministry of Social Welfare, the Ministry of Education and Sport, the Ministry of Health, the State Office for the Protection of Family, Motherhood and the Youth, and the Ministry of Croatian Veterans have a direct or indirect **social aspect** and amount to 31% of the budget. To such expenditure should be added the high expenditures for different social programmes (reconstruction, war victims and other), and the construction of transport infrastructure which constitutes around 10% of the budget. The portions for tourism and the reconstruction of industry are very modest (Ministry of the Economy - 0.95% !). The item relating to culture amounts to only 1.04% , and science 0,40% of the Budget while the funds earmarked for the environmental protection are symbolical (0.09%).

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Financial analysts note that there is an adverse ratio between current and capital expenditures. Current expenditures amount to 85% of the Budget and capital expenditure – during very long periods - from 8.5% to 14% (in 1994- 8.50; in 1995 –10.39; in 1997-13.76). The absence of capital expenditure also means that in the costs of public administration only a small amount is planned for equipment, maintenance and the like, while the lion's share goes for salaries and the like costs. Statistical Yearbook, Croatian Statistical Bureau.

1.3. Non-transparency problem

The budget proposal to be discussed in the Government and the Parliament is based on financial plans targeted at Budget beneficiaries, rather than on an analytically more appropriate functional classification. Thus the cost items remain non-transparent, and it is not known whether the Ministry of Defense finances film shooting of sport events or whether it has huge social expenditure. The explanation of the items is in documents of the Ministry of Finance and the functional classification of the government financial statistics (GFS), however the classification is not very precise as regards the categories.²⁶ In [??] 2001 an important step forward was made by presenting the budget accompanied by explanations.

There is no adequate **internal control** over, or management of, assets. In their reports, international institutions point to the problem of discipline over the use of funds and inadequate internal control of spending. Internal control is a necessity, as when the new government came into power it was faced with complete chaos in the state finances, and for some time had no proper insight into the real situation of state assets in commercial banks. "The former practices in handling the state proved to be deficient in the analysis of fiscal policy, absence of expenditure control, weak (or non-existent) cash management, and in inefficient supervisory and IT control regarding the state fiscal operations. This situation results in uncertainty in decision-making regarding the state funds allocation"²⁷ The disorder was the greater because of the overlaps of institutions along with the Ministry (Payment System Service, Croatian National Bank and other) as well as the fact that the introduction of the Treasury Department, which was supposed to handle payments from a single account supported by an adequate IT system, was continually delayed.

1.4. The problem of the reallocation of assets

As said earlier, the state administration is highly centralized and so are revenue collections and the reallocation of funds to local self-government units. Croatia is among countries with a relatively very low share of the expenditures of local self-government relative to public spending or GDP. When comparing the figures one should take into account the Zagreb budget which amounts to around HRK4.000.000.000 or almost half of the overall expenditure for all self-government units.

Table 3.5. Local finance- local units budgets %

	994	995	996	997	998
Loc. self-gov./GDP %	.88	44	71	37	93
Loc. self-gov./public spending		9.	1	1	1

²⁶ Statistical Yearbook, Croatian Statistical Bureau.

²⁷ A.Bajo, Newsletter, 6 April 2001

%	.8	1	1.2	2.4	2.4
Local self-govern index	00	28	80	19	75

Statistics data does not take into account financial transactions of local public and municipal companies although this is not an item to be marginalized.

The growth trend is low but substantial and as there are major reforms in the system of competences, pressure is exerted on local units to deal with utility and other related issues themselves (public works take 30,64% of local budgets). The cost structure is not any different than in other fields: **a quarter of the budget assets is spent on administration expenditure.**

The above data show that **administration is very expensive**; however, before a thorough analysis it is difficult to say to what extent such a situation is justified. We consider the questions “Is administration being well done? Can we be satisfied with its performance?” much more interesting. If the answer is “yes” the costs are to a certain extent relative, in other words the costs should be reduced but very cautiously, in order not to disrupt the identified quality of the state administration. However, if the answer to the fundamental question is “no” then any such (hence bad) administration is expensive, regardless of how cheap it is. The question is in what way and to what extent is it possible to reduce the costs of public administration, and while the intention is to reduce the costs and volume of the state machinery, it is also necessary to develop institutions which will be compatible with the market economy and social state. Amendments to the laws and financing system as well as fiscal decentralization whereby local self-government units will gain higher competences and more autonomy in collecting taxes, are underway.

The idea of the strategy and program of public investment must be very clear. The statistics of the public sector (functional classification) must be improved for analytical reasons but also to increase transparency, and should also cover those state agencies that up to now were missing from the statistical data (e.g. Fund for Privatization, Agency for the Rehabilitation of Banks). The prediction of costs was all the more difficult as the needs were covered from high external borrowing, and even less directly by issuing guarantees, which is in fact nothing but switching the responsibilities to some future governments.

1.3. Reform direction

In the long-term it will be necessary to define the fiscal capacity of Croatia and on the basis thereof calculate with precision how much of total public assets might be allocated for financing the state administration. Such data, along with projections of the future execution of budgetary funds, would enable the identification of 1) the costs of the reform of state administration and 2) the costs of the maintenance of the situation to be achieved by this reform. Without these indicators, no matter how good, all reform concepts are very questionable. **Tax revenues should not be reduced before state expenditures are reduced**, although in principle, spending and not savings or investment

should be taxed. Impartiality of the tax system must be achieved, characterized by evading numerous benefits and exemptions. As regards public administration and financing thereof, generally speaking the system might be established in various ways with very similar effects, there is no a general model.

While the state **should curb the instruments of public spending**, both in revenues and expenditures, and should be governed by the principle that the **private sector should have as much assets available as possible**, in other words the state should control and curb its reallocation related function, I believe that the costs must be reduced. This is a principled opinion and hardly appropriate as an uncompromising and absolute way to act. It must be contextualized by the basic direction of the reform of state administration. Financing of the state administration reform is the reform logistics; therefore the reform costs and cost-benefit analysis must be monitored on a permanent basis. By advocating a reduced share of the state administration in public spending one commits himself to an approach which is a direction. As it starts from a generally positive approach to achieving savings in the public sector, it is relatively acceptable for the economy. However, it also carries risks: inadequately paid and overburdened with duties, administrators have every reason and justification to perform poorly. In such circumstances it is hard to implement a reform the aim of which is to create a highly motivated and efficient state administration. These are the risks of rapid saving at any price, and thus one more argument for a very prudent reform of the administration financing that will be carried out in the framework of a general administration reform.

Encouraging decentralization requires a substantial increase in the autonomy of local self-government in deciding the use of sources and the rate of fiscal revenues which would make the budgets of the local self-government units compatible with the extent of competences delegated to them. However, the increase of autonomy must be accompanied by increased transparency, the rational use of the assets and responsibility. **The control of the lawfulness of local finances must be carried out urgently.** Already, in the past, local self-government units were very “skilful” in borrowing (as is the state which balances the budget by borrowing), in making speculative investments and exhibiting poor responsibility towards citizens. Therefore the system of solidarity and allocation of assets for the operation of local self-government must be adjusted to such requirements and must encourage **long-term planning of revenues and expenditures.** This will be feasible only in a normative framework with stable general fiscal policies.

1.4. Public and private sectors

There is no market without supporting institutions. “A fundamental principle and starting point in the state reform: the state must not undertake such matters that the market handles much better; the state should intervene when the market fails. As much as possible the state must abandon its entrepreneurial role while, by appropriate measures, creating an environment that will instigate further development of private companies open to innovations to undertaking commercial risks. In addition to being smaller and different as to the type of its institutions, the state must be much more efficient. Many studies have shown that the quality of state institutions impacts economic growth.

State institutions determine the market environment, so an inefficient institutional environment leads to arbitrariness by some of the state agencies and a rentier like conduct of public servants ".²⁸ Underlying the very simple formula that a minimalistic state can hardly solve social issues while a welfare state is expensive and unsuccessful, there is a conflict of ideological and political factors.

It is generally believed that the answer to the problem is privatization of the public sector and the shift in the perception of the responsibility of the individual. Privatization as the process that was carried out during the nineties in Croatia was not very successful, neither in housing or company privatization, in particular of huge systems, nor in the privatization of the public sector. **While privatization is not a panacea for the problems of an expensive, inert and inefficient public administration, it is an indication of forward movement.** Its application, however, does not always yield the same results. The World Bank studies ²⁹ note two factors that impact the likelihood of success: market characteristics and the general social environment. Specifically, if the market is competitive and if strong mechanisms for the regulation of conduct are in place, then a rapid and radical privatization is recommended, provided that stable institutions, control and social institutions are also in place. Societies suffering from economic predicaments, a low rate of investment and capital markets, and societies that lack strong competitors in the market, must first ensure an appropriate regulatory environment, and should initially consider the possibility of management privatization and only later the sale due to privatization. The Croatian capital market is very modest, and savings are insufficient to be directed at the privatization of the public sector, and citizens are used to saving in a foreign currency and not to investing in shares. Thus, the potential partners in privatization, in particular the privatization of the public sector, are primarily foreigners.

The privatization of state owned companies in past years was primarily motivated by budget related considerations. Such considerations may be very risky in the long run as well as being imprudent sales and privatizations of public services. But, the **state is not a very successful owner** or master of its assets. Privatization of the former social companies is very desirable. However, it is very important who gets such ownership, as is also the procedure and transparency of procedures or interests. The state very poorly manages its property, be it real estate, deposited money or any other asset. Land registers are lacking, information is often incompatible, the plans of usage, extravagance and irrationality in the use of such funds has become a rule of conduct. According to the opinion of foreign experts ³⁰ management of budget assets, and the control of their usage is below the expected level. The system of public supply of goods and services is not transparent and very inefficient. Moreover, this is one of main reasons for the irrational spending of assets and embezzlement. Privatization is not a solution for such problems. On the contrary, the prerequisite for privatization is orderly business operations and asset management. An especially vulnerable issue is the privatization of municipal companies, communications infrastructure and energy sources. **A bureaucratic logic**

²⁸ K.Ott i dr. Uloga države u hrvatskom gospodarstvu (The Role of the State in the Croatian Economy), Newslwtter 1, www.ijf.hr

²⁹ Privatisation: Principles and Practice, IFC, 1995, 52

³⁰ SPAI Report 2001, IV Pillar

characterizes the manner of management, service control and efficiency in these areas (imitated also at the local level), so political considerations in decision-making were of the utmost concern (price depression, reduction of developmental programs, and even of necessary maintenance or depreciation). While the popular view of such a system means accumulation of borrowing and accumulation of all sorts of fees, the problem is not that simple: much more important than a sinecure is the accumulation of power and the ability to abuse power. A mixed ownership is just one part of a possible solution (strategic partners, investors, responsibility as to profitability); however, the solution should be clearly regulated and transparent along with an assessment of its purpose in each and every case. Privatization is neither a solution for inefficiency and costly administration nor it is ideologically prescribed. In **each specific case** technical elements related to rationality are crucial, rather than general views regarding the process of privatization.

Today markets and states are in a mixed relationship of the public and private sector: they differ in the degree to which "**an invisible market hand**" shakes "**a visible hand of a public official**". The state should take care to create conditions for market competition, reduce "transactional costs" (access to information, legal and contract framework, settlements of disputes), and ensure the stability of the legal and political systems. Particularly important is a strict separation between power functions and personal entrepreneurial interests. A new entrepreneurial culture is advocated as the individual should be responsible for the risk of life's or professional failure, not the state. Freedom of the individual, not only in the political sense, means that the individual **must be responsible for himself**. Regardless of his/her education, origin or social position, the individual must be the initiator of activities and the entrepreneur, and bear himself/herself the risk of changes occurring in the global market. Everyone must bear a risk and not try to find excuses in the social structure, the rights he enjoys or the expectations he supports. Everybody must attempt to be the best, look forward and compare himself with the most advanced competitors in global competition.

THE JUDICIARY AND HUMAN RIGHTS³¹

A strong and efficient judiciary is essential for successful democratic rule. It is also crucial for development of a market oriented economic system. For business to be successful, contracts and property rights must be observed and stable, the social, economic and political environment preserved. Without the court as an institution, the law is indefinite, insecure and subject to infinite changes. Judicial proceedings and practice enhance fundamental trust and safety, and such routine procedures are most important in linking temporary characteristics of human, political and economic interrelationship. The judiciary in Croatia, in conformity with the Constitutional principles of the separation of power is independent and autonomous. Judiciary duty is not subject to the need for periodic reappointment, judges are given immunity for the protection of their independence.

³¹ Written on the basis of the study of Mihajlo Dika

1. Structures of the judiciary

Judicial authority is vested in municipal and county courts. There are four types of courts in Croatia now: subject matter jurisdiction courts (municipal, county, Supreme Court), commercial courts (commercial courts, High Court of Commerce), administrative courts and magistrate's courts. Within municipal and commercial courts there are those with limited and those with extended jurisdiction.

There are 114 municipal courts and 21 county courts. Municipal courts have jurisdiction over claims relating to contracts and property rights, trespassing, landlord and tenant cases, labor cases, protection from illegal acts, marriage and family relationship (existence or nullity of marriages, annulment or separation of marriages, paternity or maternity cases, custody or upbringing of children), and many civil cases. In criminal cases municipal courts adjudicate in the first instance for criminal offences which may be punished by imprisonment for less than ten years. In other cases municipal courts decide cases relating to extra-judicial procedures and law enforcement, cases regarding wills, land registers, and keep the land registry and the like.

In civil cases, county courts in principle decide first instance jurisdiction rendered in municipal courts (and military courts). County courts adjudicate in the first instance for criminal offences which may be punished by imprisonment for over ten years. County courts also conduct procedures for extradition of indicted or convicted persons, enforce foreign judicial decisions in criminal cases and pursue such other activities which may be provided for by law. County courts decide on conflicts of jurisdiction between municipal courts. They have a supervisory role and hear appeals against decisions rendered in disciplinary proceedings regarding misconduct by Notaries Public.

The Supreme Court of the Republic of Croatia, in conformity with Article 116 of the Constitution of the Republic of Croatia, shall ensure uniform application of the law and equal protection of citizens before the law. This is the highest court in Croatia and it provides for the uniform application of the law and non-discrimination of citizens and equality before the law. The Court hears appeals against decisions of county courts rendered at first instance and appeals against decisions of military courts rendered in the first instance.³² The Supreme Court of the Republic of Croatia hears appeals against decisions of the High Court of Commerce of the Republic of Croatia and the Administrative Court of the Republic of Croatia, decides on conflict of jurisdiction between courts on the territory of the Republic of Croatia, and also decides on extraordinary legal remedies against final decisions of the courts.

In order to ensure uniform application of the law (and non-discrimination and equality of citizens and equality before the law – Article 22 of the Judiciary Act), the Supreme Court of the Republic of Croatia considers important legal issues related to judicial practice, is entitled to give objections to lower courts concerning deficiencies and give instructions, and carry out direct reviews to establish whether uniform application of the law is in place. However, it “may not in any way

³² Military Courts were established during the war under the decision of the President of the Republic of Croatia, and dissolved at the end of 1996.

interfere with the independence and freedom of a lower court in rendering decisions in an individual case” (Article 22 of the Judiciary Act). The Supreme Court issues special publications with cases from judiciary practice. If any court finds that a law which should be applied is incompatible with the Constitution, the Supreme Court of the Republic of Croatia shall submit to the Constitutional Court of the Republic of Croatia a request for a judicial review of constitutionality of such a law.

Commercial and administrative courts have an independent status within the judiciary. Commercial courts decide in first instance in cases arising from commercial contracts which are related to the protection and use of inventions (patents), trade marks and technical improvements, use of a trade name and copyright, unfair market competition, incorporation, operation and termination of a company. Commercial courts also maintain court registers and carry out proceedings regarding the liquidation or bankruptcy of legal entities. There are 13 commercial courts and the High Commercial Court of the Republic of Croatia. The High Commercial Court of the Republic of Croatia decides appeals against decisions rendered by commercial courts in the first instance and resolves conflicts about territorial jurisdiction between commercial courts. The jurisdiction of administrative courts relates to claims against final administrative acts (administrative cases) of the state administration and public services. Further, there are 113 magistrate’s courts and the High Magistrate’s Court which adjudicate in minor offences (public order, traffic etc.). A list of elements and general provisions on the procedure describe the judiciary system in more detail, however not much is said of how the system actually functions.

In Croatia there are 1555 judiciary positions according to the job plan. 1211 (77.9 %) have been appointed so far, and the procedure for another 344 (22.1 %) has just been completed. The job plan for municipal courts provides for 946 positions; 755 judges have been appointed, and there are still 191 (20.2 %) to be appointed. The situation is not much different in county courts where out of 343 job positions according to the job plan, only 288 positions are filled. Also judges are very young³³. In municipal courts 11.4 % of judges are under 30 years of age, and 27.3 % under 35 years of age.

2. Critical problems in the administration of justice

Croatia is a good example how the system of justice can fail to support business operations and become a threat to the disruption of democracy. The situation in the judiciary is far from being satisfactory. Judges are **overloaded** with cases, technical equipment is unsatisfactory, premises are

³³ One of the most important characteristics of the judiciary structure is that judges lack appropriate life and professional experience. In municipality courts 61.5 % of all judges have less than 6 years practice in judiciary law. Among judges appointed at the end of November 1998 almost 40% of them were very young and without any previous direct judiciary practice (they are excluded from our statistical data). In the municipal court in Split 35.7 % of judges have less than two and 48.2 less than four years of professional experience while 83.9 % of them have less than 6 years of professional experience. In Zagreb 62.6 % and in Rijeka 75% of appointed judges have less than 6 years of judiciary practice.

inadequate, the level of training/competence for their job is inadequate. The problem is also **the lack of motivation and professional ethics**.

Current problems may be summarized as **inefficiency, instability, inadequate conditions for work, inappropriate management** and the lack of systematic training of judges for life.

- *inefficiency* Law cases, the number of which has rocketed, are pending for years in courts, the costs of business operation keep growing, subsequently producing a feeling of uncertainty in investors. Instead of dealing with the problems, the system delays them. Also, the system of criminal justice has become inefficient and criminals and *sophisticated* “white collar criminals”, and other bullies do not fear punishment. One of the indicators³⁴ of inefficiency is an increased number of pending cases. A particularly complex situation is the new system of land registries which might be considered almost chaotic. It should be pointed out that up to now there were certain manipulations with the data relating to judiciary statistics, particularly as regards the total number of cases. Much of the so-called judicial backlog in fact relates to land property and land registry cases, cases which may be handled by court officials not having the capacity of a judge.

- Constant economic and political *instability*, and consequently the instability of the justice system has also contributed to a huge number of pending cases in Croatia. Each of the numerous economic reforms carried out by the Government has completely changed the rules. Confusion between various adopted reforms resulted in an immense number of law suits between parties who differently interpreted the manner of a certain obligation.

- *Management* of the judiciary is poor and inefficient. Courts have not yet defined and applied a uniform policy or a system of management that would guarantee the most efficient results. The management crisis has an impact also on criminal justice and the state attorney’s office who were particularly inefficient in judicial prosecution and punishment of crime perpetrators. In respect to criminal justice the number of cases highly exceeded the capacities, and the supervision of judges and judicial staff, if it is in place, is very poor. As a consequence, judicial proceedings are slow and very often useless.

- *Work conditions* – premises, communication infrastructure, computers and registers are completely inadequate.³⁵ Information technology is routine only in the commercial courts, while in all other courts traditional typewriters prevail. Quite often judges use their own computers.³⁶

- Inadequate on the job training, together with small salaries and bad work conditions results in an inefficient system.

³⁴ In an official report of the Ministry of Justice³⁴ inefficiency has been pointed as the greatest problem of justice. The number of new cases is increasing every year - from 1.171.273 in 1996 to 1.292.838 in 1997. The number of pending cases rocketed to 110.742 (almost by 20%) - from 586.668 in 1996 to 697.410 in 1997. According to the standards accepted, this means 23.247 cases monthly or 100 judges would work 20 years. This is not quite a correct statistical data however it highlights the problem. The greatest problems are municipal courts in Zagreb, Split and Rijeka. Municipal court in Zagreb would have to work on the backlog without even one new case, for the next five years.

³⁵ It is not without irony that one of investments refers to the introduction of new ceremonial robes.

For the purpose of this analysis we will focus on two major problems:

- a) Court registers for practical economic consequences, and
- b) Reorganization of courts and procedures

2.1. Record infrastructure

The record infrastructure of the legal system should ensure that basic legal records (in the material, organizational, functional and competence related sense) are kept or should be kept in a way that the state may carry out its complex functions appropriately.

Courts keep land register (municipal), court register (commercial), have certain competences relating to the record registers of vessels and planes. The situation with registers is inadequate, in some parts of the country appalling. The consequences of such a situation are adverse as such a situation:

- generates a high level of **legal insecurity** (incompleteness, unreliability),
- frustrates clear insight into the property rights position of potential tax payers; in fact it enables hiding of actual property and consequently tax obligations,
- prevents creditors from establishing the property of their debtors so as to be able to enforce a court decision,
- decreases credit worthiness of the owner as it is impossible to prove what one's property actually is and the level of real estate mortgage, **expensive credits** due to high risks of their investment,
- discourages investment, especially foreign, since it is impossible to exactly state the value of property that is on sale or the company property that requires investment; related to this is the problem of privatization,
- overcrowded land registries with long **waiting** for ordinary registrations results, as is more than logical, in corruption which contaminates other segments of the judiciary.

Measures for an immediate improvement would be first to record the status quo and obtain basic indicators regarding the degree of up-dating, topicality of the situation, particularly as regards the uniqueness of the property (the establishment of the unity of land, building, condominium ownership), the status of property register services, the level of qualification (training) of employees assigned for the execution of tasks, premises and the technical and technological situation. First it should be established who in the Ministry will manage and coordinate the work because if the person assigned to do this job is not trained for it, the whole action will be frustrated. It is necessary to:

- develop a short-term action plan which should be different for different parts of the country. While defining the measures for the improvement of the situation, the focus should be on those parts of the country where major investments are expected, where property transactions are on the increase, and which are fiscally and economically most interesting. A coastal region, major towns such as Zagreb, Split, Rijeka and Osijek may be considered. The activities should be concentrated on units of local self-government which are very often aware of this problem and are willing and capable to

³⁶ In 1997 the Ministry invested in IT HRK 10.000.000, mostly for the registers in commercial courts.

participate financially in the improvement of the situation (e.g. the County of Istria), and the problems overcome in segments.

- establish a few expert teams (lawyer /judge, judicial adviser, architect or a civil engineer, surveyor - "central service") for land registry law who would carry out or assist in the carrying out of tasks in some land registry offices (reconstruction, up-dating, particularly condominium ownership),

- increase the number of staff in land registry services, at least **for fixed periods of time** or from the central land registry office delegate some experts to the field on a temporary basis.

- Introduce an extra (not very high) **fee** for land registry transactions which would help the courts to solve the problem of land registers. Thus courts would be motivated to determine and collect the fees for such transactions. A general level of collection would drastically increase in such a way. This should eventually be done with the collection of judicial charges.

- Organize a series of workshops with the persons employed in land registry offices in order to check their knowledge and their competence.

- court registers should be reformed **analogously with land registers**. In respect to the court register, the provisions in the Company Law according to which subsequent transactions relating to the shares in companies are not subject to be entered in registers should be given due consideration. The entry into the register should be constitutive. Only in this way all anomalies in practice might be avoided and control be established over this important segment of the property of potential taxpayers and debtors.

- investigate the role of the Central Depository Agency regarding the management of shares and extend the content and function of the records it keeps. This might be achieved by minor interventions in some laws.

- finally overcome the deadlock between the Ministry of Justice and the Notaries Public as regards the price to be paid for the connection to court registers. Due to unbelievable quibbling over it, for more than two years the court register electronic data base is practically devoid of users; the potential for Notaries Public to issue documents from the register, thus relieving judicial staff who would be free to handle the backlog, has not been capitalized upon. Neither the courts nor any other state institutions are linked to these records.

- establish a register (in the initial stage prepare the regulatory framework) of the liens, the rights to movables and to the rights. In such a manner the legal security, credit worthiness of the holder of such property, transparency of the mortgage debentures and the like would be substantially enhanced. Such registers are required by international financial institutions (IBRD, EBRD).

In this specific aspect the main long-term measure is to put things in order as regards all the records - land registries, court registries, the registry of liens on movables. Establish an *on line* link between Notaries Public offices and all the records. In the long run this would lead to a relative reduction in the staff employed in record keeping, as the clients, instead of going to obtain documents in the register offices, would obtain them in a Notary Public office. This would enhance general legal security, reduce the costs and time for raising a loan, preparing investments, transactions etc.

2.2. Reorganization of the judiciary

The European Convention on Human Rights requires that general jurisdiction of courts be ensured in criminal and civil matters. This means giving back of a great number of cases from the jurisdiction of administrative bodies to the jurisdiction of courts, such as family, social and the like matters. In this context some relevant decisions have already been issued by the Constitutional Court. Now the court will decide in matters such as expropriated property and not an administrative body.

The option Croatia is faced with in this context is the following: to establish special first instance administrative courts as the courts of full jurisdiction that would thus satisfy the requirements under Article 6 of the Convention or establish special courts for some matters that are now administered in the administrative procedure. The question is also whether to establish special courts for family matters, for labor and social matters and so on.

One of the serious threats to citizens' rights is the current system of control of regularities and lawfulness of the decisions rendered in legal procedure. Administrative court decides appeals against final administrative acts. Thus legal insecurity is substantially enhanced, the possibility of planning, activities, investing is reduced and so on. Another deficiency is that Administrative Court decides in all sorts of administrative matters and thus frustrates specializations and consequently quality performance.

Administrative Court in administrative suit almost never issues interim injunctions (measures) whereby the protection from irregular or illegal administrative acts before a final completion of the case is frustrated. This raises the question of the justification of the establishment of the first instance administrative courts with general jurisdiction, the appeals against whose decisions would decide the second instance administrative court. The establishment of such courts would ensure not only the control of lawfulness but also the regularities of establishment of the facts, in other words full control of the decisions issued by administrative bodies. Such measures would improve the operation of administrative bodies and would enhance a level of protection of citizens. The question also is whether to establish also special computation courts or only one at the state level.

All the set out reorganization-related interventions may be supported by successful comparative experience.

There are four large commercial courts in Croatia – in Zagreb, in Split, in Rijeka and in Osijek. The work load and the number of judges in other commercial courts is substantially lower. There was tendency to establish commercial courts in each county. In view of modern communications and specificities of commercial adjudication there is no reason not to radically reduce the network of commercial courts to only the four above mentioned courts. In some centers now having commercial courts it would be possible to establish prominent administrative department which would have their judicial days. In emergency cases the competence of municipal courts might be considered.

There is no reason not to reduce the number of municipal courts. The current dispersion of these courts frustrates concentration, specialization, building of critical personnel capacity for a great number of various matters. The establishment of the institution of the justice of the peace (magistrate) should be

considered, who as the individual would have jurisdiction over minor emergency cases while first instance courts of extended jurisdiction would have jurisdiction over all other major cases.

The number of county courts should be reassessed. Some of them have been established for political reasons and not for the load of court cases. The issue of appellate courts at the county level should also be reassessed should. The proposal is to establish four appellate court or only one large appellate court at the state level. Perhaps one appellate criminal court, one appellate civil court might be established as there is now only one commercial appellate court. First instance criminal jurisdiction of the present county courts could be merged (?) with the most important first instance jurisdiction of municipal courts. In any case, now there is no first instance jurisdiction in civil matters. This is the approach adopted by France and Italy.

Some vagueness regarding the dividing lines of jurisdiction between commercial and municipal courts (in civil matters), or between municipal and county courts (in criminal matters) cause unnecessary conflicts.

Therefore, the regulations should be prescribed in such a manner as to reduce this kind of a potential conflict to a minimum. In this way unnecessary transfer of cases between courts, returning of the case because of the court being not competent and the like, would be avoided. Appropriate legislation should in this respect be amended. *Inter alia*, the rules regarding the violation of jurisdiction should be exempted, in particular in civil matters, as this is reviewed *ex officio* and because it is subject to legal remedies.

In civil matters a monocratic adjudication should be consistently followed. In claims against decisions regarding the procedure and the proceedings in cases of small value should introduce the rule that the judge, the individual decides appeals.

Concentration in the proceedings should be strengthened, the right to bring forward new facts should be limited and the proceedings discipline should also be strengthened. As to the right of appeal, the reasons justifying the right to appeal should be separated from the cases where an appellate review court assesses whether a specific case is to be considered by the Supreme Court.

The law enforcement would be remarkably alleviated by the introduction, likewise Notary Public service, of special private offices with public authorities, which would carry out some tasks relating to the enforcement of claims.

2. Direct measures for improvement

Short-term direct measures for the improvement of situation:

- On the basis on the statistical data available, the situation in courts should be assessed, especially in respect of the number of judges, by name, to see who does what, what is the performance, how many decisions have been annulled, what is the length of proceedings. Such an assessment would provide an insight not only of individual courts but also of individual judges.
- On the basis of the assessment it is to be supposed, that it will be possible make some decisions relating to transfer of some cases or types of cases or individual cases from one to another

court which would be a purposeful delegation, and which would be supported by the adjustment of provisions relating to transfer of competences. It would be also possible to determine a temporary or permanent assignment of judges to other courts.

- It is necessary to establish and distinguish "justice" (pravosudni) matters which require the involvement of judges from "judicial" matters, which do not require the involvement of judges but may be carried out by the persons holding a university degree (law) or a two-year college diploma. In Germany and Austria was very successful the institution of registrars (*Rechtspfleger*), of persons not judges, who are entrusted with some judicial matters.

- Judges are appointed in line with special requirements and are granted special status. The persons who are not judges do not require such guarantee, they are less paid and may be employed for a fixed term, in other words their employment contract is easier to terminate. In this context the law on "registrars" (*Rechtspfeleger*) should be drafted.

- Hence, instead of trying to handle the backlog in courts (only) by the engagement of a new judge, it would be simpler and much more efficient to substantially increase the number of their associates, which would be entrusted with the tasks which they would be able to perform independently or with the supervision of a judge.

- A great number of cases in courts waiting to be solved might be delegated to other professionals than judges: land register, court register, some actions in the law enforcement or extrajudicial procedures, calculation of costs.

- On the basis of the assessment of the status quo of individual courts, the standards for demarcation between the justice and other judicial matters, a great portion of the backlog might be solved by the engagement of associates, advisors, holding a secondary school or a two-year college diploma.

3. Long-term improvement measures

Long-term improvement measures include all the set forth reorganization measures and a consistent and persistent reiteration of the activities that by the nature of things are urgent or immediate. Of the shortcomings of all the past attempts to improve the situation in courts was an unselective approach; the approach that did not start from the specific previously established priorities.

Hence the need to establish priorities as regards a type of cases to be prioritized but also the courts that need be urgently dealt with. It would be necessary to establish which courts, as regards an overall situation in the country but in particular in the economy, are the most relevant and then try to improve their situation by engaging additional judges, judicial associates and the like.

According to our view a short-term measure with an enormous direct positive impact on the economy, would be the intensification of operation in the execution court departments. Due to a relative low level of equipment and the overload of these departments the resolution of legal matters is very slow and consequently the right to the law enforcement of uncontroversially decided claims of a great number of creditors, even when it is feasible e.g. when debtors have property, is not exercised.

- By a rapid intervention into some regulations of organizational or procedural nature the solution of accumulated backlogs would be alleviated. An amendment to the Law on Civil Procedure is underway which. We do hope, alleviate the conduct of civil procedure. Yet, full impact of this amendment may be expected over a period from two to five years.

- A great problem is law enforcement of claims, in particular in the case of movables. There are no public agencies for sale which would maintain and sell foreclosed property. In most case the action of judicial bodies is exhausted in the implementation of measures with no effect whatsoever. Such agencies would ensure building up of expert and the concentration of the seized objects which would be sold anonymously after an expert evaluation at prices that would satisfy both creditors and debtors. The experience of some neighboring countries are in this respect very favorable.

- By relatively very simple law interventions high transparency might be achieved in terms of the stock and share structure in individual companies. This would have an enormous impact on detection (identification ?) of the debtor property and the settlement of creditors' claims.

- Specialization has been carried out only in some courts. According to the Rules of the Court in many courts the matters are assigned in such a way that all judges handle all kinds of cases. Such an approach substantially reduces the possibility of specialization, obstructs functional organization, leads to the situation that some matters are administered by applying completely inappropriate rules of procedure. Thus in bankruptcy matters civil proceedings with hearings and delay of hearings were applied.

- The attempts should be made, if practicable, to have specialization according to a type of procedure to be applied and according to a type of case. This is rater easy to implement.

- It is an urgent matter to pass the Law on Heritage, which is under preparation, and to delegate a great deal of matters in extrajudicial competence to Notaries Public. It would also be necessary to see what extrajudicial matters might be alternatively transferred to the competence of Notaries Public. Such a competence exists in all matters of voluntary lien and fidelity guarantee insurance as in practice this kind of insurance is almost regularly performed by Notaries Public.

- Finally, the possibility of a divorce procedure to be conducted in some cases by an agreement entered into between a Notary Public should be considered. This intervention would without many problems "made free" for other matters about ten judges in Croatia.

DEVELOPMENT STRATEGY – PUBLIC ADMINISTRATION: OBJECTIVES, PROPOSALS, MEASURES

1. We want an efficient, modern, capable, public administration which will reduce its costs within a framework of the actual material potential of society. A public administration which recognizes the needs of citizens and the potential of society. We want public administration which

conforms to EU standards, a public administration which will be considered a partner of civic society. We aim at decentralization and polycentric regionalization of Croatia. Any strategy should contain such visions.

2. Taking a long-term view **the approximation of public administration to European standards will occur**.
3. In practical terms this means an increase of various structures and the decentralization, regional and global associations and the internationalization of the administration in general, higher standards of professional conduct and ethics, the modification of work methods according to the principles of “new public administration”. Such an approach implies a different perception of tasks, a different relationship towards citizens and civic society, a relationship of partnership and cooperation, a higher degree of independence in changing political circumstances, different organizational principles (team work, flexibility of status, salaries and working hours), a modified perception of the profession (lifelong on the job training, informatics skills, communication, work ethics), depolitization, and loyalty to the profession, not to a political party, commitment to lawfulness and respect of human rights, socially responsible actions in the public interest and the necessary sensitivity towards social issues. The strategy of approximation to modern Europe is considered to be a long-term task and a focus of development.
4. In brief, today’s situation is not satisfactory. Institutions have been seriously undermined by a permanent lack of clear rules and sound management. The organization and position of institutions has been changing in line with political and economic changes, with no time allowed for stabilization according to the objectives, changing relationship or methods.
5. Central administration has to cope with the problem of a shortage of assets, uncontrolled staff growth, coordination of actions and political orientation and control, local administration has to cope with an inadequate territorial structure, disproportion between duties and competences and dependence on grants from central resources. Recruitment based on capabilities has been disrupted by the application of party affiliation as a criterion for position assignment and a regressive obedience towards powerful and influential persons. Work is carried out routinely without motivation or responsibility. Methods are bureaucratic, sound knowledge, experience and equipment are in short supply (generation discontinuity), along with the adverse economic (material) situation, (unrealistic) expectations of the public and political representatives, in a situation of reconstruction of the war damage (not only material) and authorities not open to modernization reforms. Dissatisfaction is the cause for changes.
6. Instead of effective and short-lived interventions and gradual changes, we advocate focused, controlled and long-term change. We want to point to our negative reform experience where willingness and good intentions were much easier than well-thought through changes. Before we begin with specific measures we want to point out that **the fundamental idea of the strategy is an emphasis on systematic change-related measures**: reform of public administration is a set of completely different measures. Modification of the legal infrastructure or decisions rendered by a

judicial body are only the beginning and not the end or the only form of the reform process.

7. Difficulties do not lie in the formulation of acts but in their **implementation**. In other words this means that measures apparently acceptable and justifiable will not yield any effect if not coordinated and concerted in a time frame in line with general strategic objectives. While errors may over time yield good results, the best ideas may in the long run be spoilt. Nothing must be destroyed, nor institutions cancelled or people substituted without a very good reason and awareness of the manner in which the activity is to be continued. What we want is of little importance if we do not know how to achieve it.
8. Therefore, the strategy has not given up the reform of public administration to politics or the government but it offers it for debate to all those who are interested and knowledgeable, it opens up to civic society asking for support and encouragement. Therefore the success of this strategy depends upon **ongoing attention to the reform of public administration**. This implies the creation of some institutional conditions for the political support of changes. Both the Government and Parliament need a debate on public administration even when specific legislative proposals are not on the agenda.
9. We advocate the support of projects and initiatives developed within the framework of civic society relating to the administration system reform (“Decentralization”), changes in justice (Croatian Association of Judges, HHO), changes in local and regional self-government (Regional Association of Municipalities and Towns, Istra 2001) not only for the sake of their success but primarily for a public debate on the topic of public administration reform.
10. The analysis and measures we propose **are directed towards a continuous change of institutions**, to institution building. We do not believe that the human factor - the characteristics, capabilities and motivation of people - can always be neglected. On the contrary, it is precisely these elements that are important for direct action. However the strategy implies a time framework that is beyond immediate interests and causes.
11. Therefore, an ongoing concentration means the orientation towards systematic and institutional measures, openness to new ideas and proposals and a long-term perspective of action.
12. It is necessary to raise the general competence, organization and motivation of institutions which in line with their position prepare, perform and monitor the public administration reforms. An assessment that the current Ministry of Justice, Administration and Local Self-Government lacks the prerequisites to elaborate, propose, control and monitor reforms is only partly true. Such a task naturally was not provided for in its earlier reorganization and new tasks, in particular after the Stabilization and Association Agreement was signed with the European Union on 14th May 2001, require substantial organizational and personnel changes. In the debates on strategy formulation and later in the text itself, the need for collection, processing, analyzing and publication of public administration data was continually stressed. In addition, the reform includes quite a comprehensive legal initiative, which will expand further during the reform, a very intensive public mobilization of experts, development of educational programs. Finally,

coordination with other ministries is needed (in the area of finances, European integration, the economy) and other institutions (institutes, universities, agencies). Nobody is prepared for such tasks.

13. To follow such a process of adjustment it is necessary **to establish an institution for the coordination of adjustment tasks to European standards of administration.** Such a coordinating institution may be established in very different forms, for example, as Government Coordinating body or a committee or a body alongside a Ministry, as a separate institution. Each of these options has its pros and cons. According to international experience preference is given to a separate body (Slovakia), however traditionally such bodies are established within the ministry, responsible for such types of activity, or with the representative body. The choice of option must take account of the fact that such a body has a strong political influence and works closely with the Government linking its different parts, and that such a body also represents multidisciplinary expert opinion. **The activities in the field of collecting, storage, presentation and analyses of the public administration data should be restored.** Previously, such tasks were carried out by the Institute for Public Administration, however the activities of the Institute were limited as regards time frame and the environment within which it operated, as well as by inadequate funding, equipment and methods of work. While it would not be advisable to restore what was once in existence, from a functional point of view such an institution would be needed. One of the greatest problems with this study was that there was no institutional support in structuring an appropriate strategy. In other fields there are numerous institutions (institutes, centers, associations), which make available the necessary data, previous strategies and analyses, systematized shortcomings and achievements, professional and expert specialization, publications, resources and staff. Just as an illustration, the last study relating to public administration reform was developed in 1968.
14. In the field of public administration we are at the beginning again, behind time, creating stronger institutional involvement in research, debates, formulations and administration reform programs. Work should be continued at the operative level and detailed realization of the strategy, closely related to similar projects should be developed through the CARDS and similar programs (Decentralization). The strategy is an open document not only in the sense of comments and suggestions, ongoing monitoring and adjustment, but also as a unifying element for all other activities.
15. In the past year the Government has adopted a set of measures relating to central administration (employment, job positions, promotion) and to local self-government (the electoral system, decentralization of competences, in particular in education and health care and financing). These measures were aimed at having a direct impact. The changes are to be continued.
16. Internal organization of the government, the problem of coordinating the work of different bodies is a separate issue at the level of the central state administration. It is not only the number of ministries, but also the coordination of other bodies and in particular changes in the government's

methods of operation and rationalization. It is necessary to single out the task relating to government reorganization as this is a technical and very demanding task focused on detail, as well as **the creation of a technical support program in the modernization of internal government operation, the modification of the organization of administrative and technical services.**

17. We consider the dilemma regarding the concentration and differentiation of central authorities as a dilemma founded on the ever-changing measurement criteria, so it is a relative not an absolute one. At present the opinion that the number of ministries should be reduced and independent bodies included into the current system prevails. As for the assessment that downsizing staff is one of objectives, accompanied by very pronounced coordination problems, we recommend **a reduced number of departments and some changes in the operation of coordination bodies and expert monitoring of the operation of the Government.**
18. Staff recruitment for work in administration is one of key issues of the public administration reform. Public administration is **over capacitated**. The encouragement of a system of elections, promotion and remuneration according to capabilities and performance (a “merit” system) is crucial for the performance of public administration. The reality is very different. The top structures in public administration in Croatia are not professionalized. Criteria such as political and party selection, origin of birth and personal loyalty frustrate the development of a modern and professionalized administration. Such matters have an immense impact on the commitment to profession, work and ethical conduct. In some parts of the administration there is overstaffing and in others understaffing.
19. The number of the employed is relevant for both financial and work reasons. The costs and the size should be reduced, however this should not be a **mechanical reduction**. Firstly, inefficient administration is expensive, regardless of its size or costs. Next, relocation is a much better solution than dismissal or disguised costs (early retirement). Finally, in many sectors there is a chronic shortage of people and resources necessary for operation. A model of training for administrative service should be reconsidered; lifelong on the job training and postgraduate specialization should be particularly encouraged.
20. Downsizing staff should be considered as an integral part of the administration reform, as the objective is **not to reduce the number of staff but to achieve new performance quality**. The problem is inadequate and thus not very stimulating salaries unrelated to work or performance but to a status or position. Salaries are not squandering of money but costs and must be compatible with capabilities and performance. A poorly paid and overloaded administration has every reason to perform poorly. In such an environment it is hard to carry out the aim which is a motivated and efficient state administration. These are the risks of fast savings at any cost, and one more argument for a prudent reform of administration financing which will be carried out in the framework of a general administrative reform.
21. It is necessary to separate systems that are only formally associated and instigate **the transfer of**

duties to independent organizations and institutions of civic society.

22. A **“merit principle”** regarding recruitment, status, promotion, remuneration should be strictly respected, and depolitization of positions and function as well as ongoing lifelong on the job training enhanced. We also believe that the system of examinations as a basis for carrying out tasks is not appropriate just as it is not the system of criteria for employment.
23. Negative occurrences such as corruption, nepotism, abuse of function are not marginal. Work methods should be improved along with a speedy informatization process and IT knowledge should be an integral part of administrative skills.
24. The state **should cut the instruments of public financing**, both at the revenue and expenditure side of positive evaluation of savings in the public sector as it is relatively acceptable for the economy. **Control of the lawfulness of local finances is very urgent.** Furthermore, the system of solidarity and reallocation of funds for the work of local self-government must be adjusted to the demands and **long-term planning of revenues and expenditures must be enhanced. This is** feasible only within a stable normative and general fiscal policy. Administrative costs exceed material capacities. The internal structure of the budget expenditure is adverse, the costs for the most part relating to reallocation of funds with a strong emphasis on the social aspect, debt servicing, administrative expenditures. There is no transparency in the preparation of the budget, no appropriate system for financial or internal control and resource management, no clear measures to indicate costs and program performance. The role of professional financial institutions or citizens is marginal, the degree of centralization regarding revenues and the reallocation towards local units too high; instability is present, as in the past years the budget deficit was made up by foreign borrowing, the sale of private companies and the like. Some reforms were prepared as early as in 1998.
25. Decentralization is not only a political goal. It implies different territorial organization which is in many aspects inadequate. The structure of local units is inappropriate – there are too many of them. Units that have no potential or objective need to have the status of a town have been proclaimed such.
26. The local system of democratic representation does not encourage the involvement of citizens. There is a shortage of resources but also of entrepreneurship and responsibility. The role of local units in the instigation of economic growth is marginal. Instead of management, ruling is in place. Regional level is inappropriate in the current county organization. Local elections occurred before adequate preparations for a change to take place, so that the reforms carried out being directed towards indirect effects such as the rationalization of territorial organization and a flexible system of councils and the executive level is a certain step forward and is in line with the proposals of this strategy.
27. A new **territorial organization** should be based on **rationalization** and the respect of the true potential of local and regional self-government units, the expansion of matters which local units will perform autonomously, along with a rational, and more appropriate to local circumstances organization of local and regional units, the establishment of an electoral system where the individual will be important, and the supervisory central bodies viewed as assistance in both a material and financial

sense and a guarantee of rational and lawful administration.

28. Regionalism is not a threat to Croatia. The threat is voluntarism where the number, size and competences of regions are adjusted to current political circumstances. Preparations and technical multidisciplinary background have not made remarkable progress. Therefore, the preparations must be delegated to a unique group for the preparation of territorial reorganization which could develop virtual models which would serve as a rational background. Such a group should take account of historical and rational borders and also of the opinion of people. Hence, **an expert team for the development of the fundamentals of territorial organizations should be established.**
29. The relationship with the public should be based on true commitment of the top officials in public administration to provide citizens with information on the operation, goals, predicaments and potential of the administration. Citizens are entitled to such information and also to be actively involved in the process of social decision-making at all levels of the administration. Consultations with the public and beneficiaries are a good basis for quality decisions; this is not just a routine, formal action. It is particularly important to protect citizens in their role as users of administrative services. The information given to the public must be objective, accessible and full. The obligation of public administration is not only in principle to be responsible for its work, but to find out how the citizens, users of its services, rate its work. The evaluation of work cannot be reduced to complacent reporting to elected bodies such as the parliament, assemblies and councils. Complaints about the work should not be considered a problem but a normal, necessary element in redirection of the operation. **Principles regarding the relationship with public must be changed; citizens as users must be entitled to obtain information about the operation of public administration, they must participate in the work and decision-making of the administration.**
30. **It is necessary to carry out public opinion polls, apply “open doors” principles, set up free phones, and most importantly, change the institutions in the way to enhance the participation of citizens.**
31. The polls showed that a developed civic sector is an extremely important factor for the efficiency of public administration, particularly at local level. The development of a civic society means self-organization of society bottom-up. **Partnership of the state and civic society fosters democratization.** Civic society has no tradition in Croatia. Cooperation between the administration and civic organizations is poor. The administration is suspicious of civic initiatives. A partnership between public administration and civic organizations should be encouraged.
32. A modern and meaningful legal framework for the development of civic society should be developed and also a transparent system for rewarding grant to civic organizations. The CARD program in this respect is very useful for learning from foreign experience and obtain financial and technical assistance. Representatives of public administration should be adequately trained in

this field.

33. Finally, changes in the organization of the justice system are also elaborated, not as a systematic plan but as a complementary element. Proposed measures are directed towards the efficiency and independence of justice and are complementary to the public administration reform. The justice reform as it relates both to the measures proposed and the persistent systematic changes, is a prerequisite for the protection of human and other rights of the citizens.
- 34. The strategy of the public administration reform aims at the Europeanization and modernization of public administration. The program contains a number of assumptions and measures to be implemented. The reforms have been slow in coming. They are slow because a system was established in which the lack of clear objectives and development plans, reduced decision-making to mere routine work, the aim of which is just to maintain position, power and administrative procedures. The whole range of institutional changes during the past ten years, or better to say thirty years, has failed so that a satisfaction with the current situation may not be justified. Modernization assumes not only change of work methods, informatization and openness but much more than that, a change in perception of what, in what way and with what means public administration operates. Therefore this reform is only the beginning.**
- 35. In the field of public administration reform there are no relevant prerequisites: systematized knowledge, a sufficient number of motivated experts, a mobilized general public, so in comparison with other spheres of society, bureaucracy, voluntarism, marginalization of the public, it is obvious that public administration reform has not been given necessary consideration..**
- 36. To overcome such trends, to modernize the administration and bring it closer to European standards and norms of conduct, will be an expensive, long lasting, and because of the difficulties, not easily predictable undertaking. In the state reform of public administration in Croatia the word “undertaking” implies firm political will, constant focus, all-inclusive help, the use of knowledge, experience and cooperation.**