

One Candle, Two Candles... Is There the Third One? Croatian Public Administration Reform before and after the EU Accession

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1. Introduction

Croatia has a relatively big but inefficient public administration. About 293,000 employees or about 17% of the work force is employed by the state, according to the World Bank. The share of public wages in GDP in 2014 was 11.8% (WB 2016, 43–44). However, more detailed data show there are about 317,000 employees or more than 18% of the work force employed by the state (Koprić 2017a).² The percentile rank of Croatian government effectiveness at the Worldwide Governance Indicators in 2015 was 72, in comparison to 88 for the OECD countries (WGI 2015).

The Croatian public administration reforms have been conducted in a patchy and bumpy manner (cf. Koprić 2017b). An attempt to initiate a more systematic reform, by means of the Strategy of State Administration Reform of 2008, has resulted in humble success, as only some of the measures have been fully or partially implemented. After four years without any general strategic document about public administration reform, the second Strategy of Public Administration Development 2015–2020 was adopted by the Parliament only in 2015 (Strategy 2015). However, the Action Plan for its implementation, prepared in line with the requirements of the European Commission was adopted only at the very end of 2016.

The global economic crisis hit Croatia in 2008. The largest GDP rate drop of –7.4 was experienced in 2009, followed by negative values until 2015. In the 2008–2014 period GDP dropped by more than 12%, and unemployment grew from below 9% to more than 17%. The youth unemployment rate is among the highest in

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2 The difference can be explained by different methodologies of collecting data. Military and police forces have been included in the EUPACK report (details in Koprić 2017a).

the European Union. The employment rate fell to 57.3% in 2013. Government debt increased in the 2008–2014 period from 38.9% to 85.1% of GDP. The prolonged recession lasted for six years. Slow economic recovery started only at the end of 2014 (EC 2016; Petak et al. 2015). Hard neoliberal reform measures have not been accepted by domestic political actors, at least not in their radical forms, despite the deep economic crisis and although the Croatian business community has strongly advocated for structural reforms in line with the New Public Management doctrine.

Croatia became a European Union member state on 1 July 2013. A period of political instability with early general elections in 2016 (less than a year after the regular general elections), change in the ruling coalition, and change of political officials of the Ministry of Public Administration in 2017 added to the complexity of administrative reform implementation. Lack of political will has, from time to time, been substituted or supported by the EU conditionality policy, European Semester recommendations, or similar tools in the hands of external players.

The basic principles of European good governance frame the majority of reform steps and measures, as they are widely accepted, at least at the formal level. However, the realization of such principles is weak, slow, eluding, hesitating and equivocal. The dominant top-down approach to PAR in a majority of cases functions in a negative, preventive manner. It means that the dominant political actors select, from the menus offered by the business community, academia, civil society and other actors, only those rare reform components, directions and measures which they consider not to be politically sensitive.

The size of the public sector, administrative tradition and the existence of a number of influential trade unions have prevented or delayed administrative reforms. Internal bureaucratic resistance to changes can also be observed. Foreign actors play a moderate role, except the European Union, whose conditionality policy and insistence on the administrative capacity building have exerted a modest influence on administrative modernization. Even the Country Specific Recommendations that have been issued and have tackled administrative reform since 2014, in the frame of the European Semester, produced almost no positive response from the Croatian side (EC 2018).

A vast majority of decisions about administrative reforms are based on pure partisan political weighting without any evidence and professional preparations. Policy design is generally weak, monitoring formal and evaluation almost non-existent. Political decisions are simply and directly transposed to regulations. Warnings about weak policies, low quality of law preparation, accumulation of inconsistent laws, and non-existent and formalistic regulatory impact assessment have regularly come from domestic professional associations and external players, producing only minor effects.³

3 The low quality of the rule of law and evidence-based instruments was stated, for example, in the 2015 Bertelsmann report (Petak et al. 2015).

There are only a small number of cases in which dominant political actors have instigated well-programmed, comprehensive reforms and continuously and persistently supported their realization. Not only political unwillingness hinders administrative modernization, but also the lack of administrative capacities for managing reforms, bureaucratic resistances, social rebuffs and even impedance from parts of academia (for example, in regard to administrative procedural simplification). In many cases, reform measures have been undertaken in reaction to dissatisfaction or pressure from the public or media.⁴

In this paper two reform directions are analyzed, showing some reform progress in the overall darkness of post-accession hesitations and vagrancies. Administrative reform is incremental even in the most positive examples, while it stagnates in a wide number of areas. The transparency and openness policy can be seen as a success story in Croatia, while legislative reform shows moderate success. However, it is not easy to find the third candle, which would introduce some modernization light into the Croatian public administration.

2. Analysis of two reform initiatives

2.1 Transparency and government openness policy

2.1.1 Reform content and background

Transparency, openness and participation are the three main components of transparent and open government. This is widely recognized in several important EU and OECD documents, such as *A White Paper on European Governance* (EC 2001), *Citizens as Partners: Information, Consultation and Public Participation in Policy-Making* (OECD 2001), and others.

Transparency and openness policy has been widely recognized as an important component of building trust in public administration, an anti-corruption measure, a policy betterment instrument, and a measure for civil society development (Musa 2017; Vidačak and Đurman 2017). While transparency opens one-way communication, openness means two-way communication between public authorities and citizens (Musa et al. 2015). Giving information to citizens, through various channels, including digital ones, or granting citizens access to public sector information, is the main component of a transparent public administration. Public consultations and citizen participation in designing public policies and preparation of public decisions are the components of government openness (Musa 2017). All three components have been covered by the transparency and openness policy in Croatia.

4 A well-known example of the abolishment of the Office for Regulatory Impact Assessment and its relocation to the Legislation Office (in 2009) shows that such measures may be senseless, superficial, costly and counter-productive.

In the early 2000s transparency and openness policy was seen by domestic actors and citizens as an important component of the new governance orientation which diverged from the previous authoritarian regime established during the 1990s and characterized by secrecy, non-transparency, unethical political behaviour, and extremely weak accountability arrangements. Transparency and openness policy was also considered a part of the EU accession process, which formally started in 2001 by signing the Stabilization and Association Agreement between the EU and Croatia.

However, the first wave of authentic domestic enthusiasm began to lose strength after a short period, along with political change in government. The transparency policy then found a new anchor and was promoted within the EU accession process, with additional support from several international organizations and donors. The EU accession process was the main leverage of changes and their legitimization while Europeanization activities served as the main innovation source.

A number of domestic civil society organizations, media, members of academia, and certain political actors served as the real backbone of transparency policy. They managed to use external pressure and support for several important innovations in the domestic legal, policy and institutional landscape, such as the introduction of the right to public sector information into the Constitution (2010), the establishment of the Public Sector Information Commissioner (2013), the legal regulation of public consultations (2009–2013), and some others. Certain parts of the governmental machinery, such as the Government's Office for Cooperation with NGOs and some others, served as the linking pin for them.

They also used critical junctures, such as the sudden break-up of the second Sanader Government and the shocking disclosure of an enormous scale of political corruption, flavoured by additional forms of unethical political behaviour and serious criminal charges. The political crisis began with the surprising and furious collapse of Sanader's Government on 1 July 2009 and continued with his unsuccessful attempt to regain the position within the ruling political party (HDZ) at the beginning of 2010, his arrest under severe charges in December 2010 after a shameful attempt to escape from Europe, convictions and a prison sentence for the vice-prime minister Polančec, and some other convictions and criminal proceedings. After that, there were no political actors or politicians able or willing to publicly oppose the resolute, on-going public request for transparent government. A favourable circumstance was that the political crisis coincided with the last phase of the Croatian EU accession negotiations.

In such a way, the interpretation of transparency and openness as a component of good European governance was spread and firmly accepted in the political system and society, despite some resistance and occasional rebuffs from the governmental side and certain politicians or minor political actors. The continuous detection of unethical political behaviour at the local and national levels by civil

society and the media significantly contributed to the ever firmer public attitude that without transparency and openness there is no chance for the political system to become democratic and responsive.

However, it should be noted that political instability after the parliamentary elections in November 2015, with several changing political coalitions and the replacement of the president of the leading political party, has made room for political actors not really supporting the transparency and openness policy.

2.1.2 Reform dynamics

Adherence to the new transparency policy in Croatia, under the general notion of “Europeanization”, was substantiated by the adoption of the first Act on Access to Public Sector Information in 2003. It was adopted within a broader set of anti-corruption measures. It established a legal basis of access to public sector information and regulated the access procedures and obligations of public sector bodies which hold information. However, it failed to establish an effective institutional arrangement for ensuring implementation. The legal basis for monitoring the Act was weak. Reasons for refusing access were not connected with the test of public interest. Procedural provisions also showed certain inconsistencies and shortcomings. Hence, the first phase was characterized by many obstacles in administrative practice.

The second phase was characterized by including the right to access public sector information into the Croatian Constitution by the Constitutional Amendments of 2010. Public pressure after the beginning of the political crisis was sufficient not only for legislative changes, but also for the incorporation of the right to access public sector information into the Constitution, as a constitutional right. Soon after the adoption of the Constitutional Amendments, the Croatian Parliament adopted the new Act on Access to Public Sector Information, but it was declared unconstitutional by the Constitutional Court.

In 2011, the amendments to the Act of 2003 were adopted. They significantly improved the previous regulation. Among other novelties, the Personal Data Protection Agency was stipulated as the appeal body. However, it was not easy to balance the tasks of data protection and access to public information, and the Agency had insufficient organizational and personnel capacity for taking over this new task.

The third phase started in 2013, when the new Act on Access to Public Sector Information was adopted. The new Act widened the circle of public bodies obliged to ensure access to their information, the test of public interest and the proportionality test were better regulated in comparison to previous regulation, an obligation of public bodies to disclose information proactively was strengthened, procedural provisions were improved, inspection powers were introduced and granted to the Public Information Commissioner as well as the competence to impose fines, an obligation of public consultations in the legislative procedure

was included into the Act, and the reuse of information was regulated in line with the EU Directive on the Re-Use of Information (the PSI Directive). Later, by means of the amendments to the Act adopted in 2015, Croatia fully transposed the amended PSI Directive (Musa 2016).

The Public Sector Commissioner is elected for a five-year term following a public call and competitive procedure. The first ever Public Sector Information Commissioner was established, and the first Commissioner (Anamarija Musa) was elected by the Croatian Parliament in 2013.

Consultations with citizens and other interested subjects were provisionally regulated by the Code of Practice on Consultation with the Interested Public in the Process of Adopting Laws, Other Regulations and Policies, adopted by the Government in November 2009, as a measure of Anti-Corruption Strategy implementation. The Code Implementation Guidelines were adopted in 2010. Obligatory public consultations were introduced by the Regulatory Impact Assessment Act in 2011, and more precisely and widely regulated by the Act on the Access to Public Sector Information of 2013. This Act widened the consultation obligation and clearly obliged all public authorities to open public consultations about new regulations they intend to adopt. The Public Information Commissioner got the competence to supervise the implementation of the public consultations obligation and introduce sanctions against those who do not respect the obligation (Vidačak and Đurman 2017, 83).

Amendments to the Act on Access to Public Sector Information of 2015 introduced an obligation to provide public consultations in the legislative process (covering primary and secondary legislation) and in the process of adopting strategic and other plans, local governments' by-laws, and regulations of legal persons with public competences. The Act requests 30-day consultations as a rule. State bodies are obliged to enable public consultations by using the central state portal for public consultations, which has been in operation since 2015 (esavjetovanja.gov.hr). Local governments are free to use the same portal or to organize e-consultations via their own internet pages.

Croatia has adopted certain traditional forms of citizen participation inherited from previous times. The first Local Government Act of 1992 provided for local referenda, citizens' initiative, consultative meetings about local matters, territorial committees, and some other forms of citizen participation. Later, Croatia developed a new system of national minority participation and their political representation at all governmental levels. Independent political actors (lists and candidates) can compete in all sorts of elections on equal footing with political parties. Youth councils were introduced at the local level in 2007, while direct elections of local mayors, along with the possibility to recall them, were introduced starting with local elections in May 2009 (Koprić and Klarić 2015). Some other forms of citizen participation, such as cooptation into the committee membership of representative bodies at all governmental levels, are also well-known and used.

Transparency and openness are in the focus of the Open Government Partnership Council, established soon after Croatia joined the OGP Initiative in 2011. The Council's main tasks are preparation, coordination and reporting about the implementation of transparency and openness policy. Although the Initiative was instigated by US President Obama, in the beginning, OGP was perceived as a contributing factor to the EU accession process. The OGP Council prepared two action plans, for the period 2012–2013 and 2014–2016, respectively, planning a number of precisely defined activities intended to promote the open government concept in Croatia. Members of the OGP Council are representatives of the governmental bodies and civil society. Frequent political changes caused a delay in the preparation of the third action plan and a sort of slow-down in the Council's activities during 2016 and 2017.

2.1.3 Reform results

Reform results and outcomes are much better at ensuring access to public sector information than at ensuring public consultations and the participation of citizens in designing public policies and preparing public decisions, but the general assessment is that the introduction of a transparency and openness policy is, in general, among the most successful administrative reforms in Croatia.

The best are the achievements of the Public Information Commissioner, who has worked proactively and successfully in several directions. The Commissioner published her Report for 2016 at the beginning of 2017, presenting a comprehensive, detailed and critical report of 137 pages, with a separate shortened version on 35 pages. During 2017, the Commissioner disclosed all annual reports about the implementation of the right to access public sector information from 2004 to 2016 on the official internet page.

The number of citizen requests for public information was 19,600 in 2004, 4,499 in 2005, 4,357 in 2006, 3,670 in 2007, 2,730 in 2008, and 3,173 in 2009, 12,340 in 2010, 51,930 in 2011, 53,521 in 2012, 24,330 in 2013, 21,078 in 2014, 18,007 in 2015, and 17,059 in 2016. The last two pre-accession years showed the largest number of requests. More than 93 % of the requests were positively resolved in 2016. The majority of other indicators were better in 2016 than in the previous years.

Although their number has been decreasing after 2012, such a result does not indicate a worsening performance, but on the contrary: much better results in the proactive publication of public information on the internet pages of public bodies. Also, a continuously increasing number of information officers in public bodies contributes to smoother access to public information.

Public authorities are required to disclose a great deal of information on their work on their websites, in an easily searchable manner and in machine-readable form, as prescribed in Article 10 paragraph 1 of the Act on the Right of Access to Information. The obligation covers the following areas of transparency: transparen-

cy in decision-making, transparency of work and planning, financial transparency, and transparency in the provision of services and communication to beneficiaries. All these areas are supervised by the Public Information Commissioner.

The Central Catalogue of Official Documents of the Republic of Croatia has also been established for the public disclosure of relevant documents. All public bodies submit certain documents in electronic form to the Catalogue from which they are easily accessible. The obligation covers legislation, regulations, and decisions made by public authorities that affect the interests of beneficiaries, with the reasons for their enactment, as well as annual plans, programmes, strategies, instructions, work reports, financial reports and other relevant documents referring to the activities of public authority bodies. In 2016 some 1,200 public bodies submitted 15,049 documents to the Central Catalogue.

In 2015 the Commissioner established the Registry of Public Bodies with data about 6,045 public bodies and 4,425 information officers employed in them. At the beginning of 2017 there were data about 5,873 bodies (certain bodies were abolished or merged) and 5,019 information officers.

The Commissioner announced the public disclosure of a separate registry of territorial committees, city quarters and town districts, which, according to the Croatian legislation, have legal personality, by the end of 2017. It is assessed that there are some 4,300 such bodies closest to the citizens and intended to serve as the basic channels of citizen participation at the local level. Moreover, the Commissioner sent them guidelines for the implementation of the Act on the Right of Access to Information in November 2017.

An improvement in the transparency culture is also visible from the data about the number of public bodies that submit yearly reports about the implementation of the Act on the Right of Access to Information, among other indicators. The percentage of resisting bodies continuously decreases, from 41.5 in 2013, to 28.7 in 2014, 23.6 in 2015, and 19.0 per cent in 2016. However, the Public Information Commissioner, in her report for 2016, criticized the reasons invoked by non-complying bodies, from the conviction of some associations financed from public budgets that they are not obliged to report, to the opinion of some institutions that they are not public bodies (Izvejeće 2017).

The Public Information Commissioner strongly advocates the right to re-use public information. Re-useable information is a form of information – it must be machine-readable, available in an open form and in compliance with open standards. The Republic of Croatia's Open data portal <https://data.gov.hr/> contains public authorities' data sets that are meant for re-use, together with metadata, and was launched in March 2015. The portal is linked to the European Data Portal <https://data.europa.eu/>. Several local governments also have functional Open Data portals. According to several reports and rankings, Croatia is among well-ranked countries

with regard to re-use and open data policy implementation, making good progress in the past few years (cf. Musa 2016; EC 2017).

The transparency of local governments has been assessed and researched several times by various actors, starting from 2009 when the first comprehensive research was conducted by two non-governmental organizations (GONG and the Association of Croatian Cities and Towns). The second round of research was conducted in 2011–2012, showing an increase in the level of local transparency (Musa et al. 2015, 427–429). Musa et al. conducted an empirical research in 2014 evaluating the transparency of web pages of 16 Croatian cities (with more than 35,000 inhabitants). It was found that they achieved 69 per cent of the Transparency and Openness Index standards (Musa et al. 2015).

The transparency of public budgets (local and state budgets, public funds) is of special importance for the realization of the transparency of public administration in general (Ott et al. 2013). The Institute of Public Finance conducted an evaluation of local budgets' transparency four times, in 2013, 2014, 2015, and in 2015–2016. The conclusion is that budgetary transparency at the local level has been improving. Counties have achieved the best results, towns had very good results, and municipalities had rather poor results. The average score on the 1–5 scale in the last evaluation was 3.1, in comparison to 2.4 and only 1.8 in previous rounds (Ott et al. 2017).

Public consultations are more frequently used in preparing decisions and policies, especially at the national level. Only 48 laws and regulations ($\frac{1}{3}$) underwent public consultations in the first year of application (2011), and 173 comments were received. In 2012, the number of regulations which were opened to public consultation increased to 144 (4,786 comments received). The number increased further to 374 in 2013 (12,738 comments), 544 in 2014 (18,767 comments), 608 in 2015 (15,411 comments), and 642 in 2016 (12,856 comments) (data from the reports about public consultations at the national level from the Office for Cooperation with NGOs).

Public consultations are conducted about draft laws, government decrees, rulebooks, strategies, decisions, guidelines, and other documents of public interest. At the national level, the number of actors submitting comments was 4,786 in 2012, 8,299 in 2013, 7,482 in 2014, 5,863 in 2015, and 4,105 in 2016. Citizens and NGOs submitted 3,303 comments out of 4,105 in 2016 (80.5 per cent). In 2016, all subjects submitted 12,856 comments, but only 1,392 were accepted and 718 were partially accepted. The central internet portal for public consultation has been operating since the spring of 2015, but local governments are free to use their own web pages. The decreasing number of subjects who submit their comments needs to be further researched, but two interpretations may serve as hypotheses. On the one hand, opening public consultations at the local level may attract more attention of citizens to that level. On the other hand, weaker interest may indicate lowering

public trust in governmental bodies at the national level, especially because of the low share of accepted comments.

The Public Information Commissioner collected consolidated data about public consultations conducted by all public bodies that submit annual reports (the whole public administration, including local governments, public agencies, and public institutions). The data show that all of them conducted 2,092 public consultations, in comparison to 1,454 in 2015 (a 43.9 per cent increase). Local governments are largely responsible for such increase, because they conducted 1,198 public consultations in 2016, in comparison to 604 in 2015. The average length of public consultations was 17 days, in comparison to fewer than 8 days in 2015, but still shorter than prescribed (30 days as a rule). Some other forms of consultations are also in use, such as public debates, delivery of draft regulations by e-mail, participation in working groups, etc. (Izvjješće 2017).

The OGP Council has progressed well, with some slowing-down after the 2015 parliamentary election, because of political particularities (frequent changes of ruling coalitions at the national level). It has served as a general platform for the coordination of transparency and openness policy at all governmental levels. Two moments need to be stressed: firstly, during the three mandates all Council decisions were adopted after unanimous votes of all members, showing the good quality of its debates and the high level of understanding among the members; and secondly, the Council was determined to plan those activities which lead to significant improvements and are feasible and sustainable.

Unfortunately, the prospects of this policy have worsened because of a surprising political development, with initial indications of illiberal ideas and populism, and frequent political changes in 2016–2017. One of the general indicators in that regard is the worsening of the score on Transparency International's 2016 Corruption Perceptions Index list. The score dropped from 51 in 2015, when Croatia had its best score ever, to 49 in 2016.

2.2 Legislative process reform

2.2.1 Reform content and background

Regulatory reform is a standard element of contemporary administrative reforms based on the New Public Management doctrine. Its intended results are deregulation, administrative simplification, better regulation policies, and smart regulation. Deregulation is often considered a simple reduction of the number and complexity of regulation, especially for businesses, in order to reduce regulatory costs. Administrative simplification reduces administrative burdens, i.e. cuts red tape, which is one of the main problems for small and medium-sized businesses, as well as for citizens. At the EU level, better regulation policies ensure that “decision-making is open and transparent; citizens and stakeholders can contribute throughout the policy and law-making process; EU actions are based on evidence

and understanding of the impacts; regulatory burdens on businesses, citizens or public administrations are kept to a minimum.”⁵ The smart regulation is based on the question “how to achieve policy goals and better results through legislation with minimum disruption” (Petak 2015).

The expected outcome of regulatory reform comprises better quality of public policies and regulations for improved achievement of policy goals, and better regulatory environment in a country. Regulatory reform supports investment and the business climate. Regulatory reform usually relies on tools such as regulatory guillotine, digital services to businesses and citizens, regulatory impact assessment, improvements of sectoral policy expertise, evidence-based policy making, adjustments of sectoral policies in the frame of general governmental strategy, public consultations, and some others. Digitalization, interoperability, electronic internal communication network of public administration, reliable public statistics, open data, e-services, and similar tools are but some of the preconditions for a successful regulatory reform.

Two conservative governments led by I. Sanader (2003–2009) were focused on the application of NPM-inspired administrative reforms, starting from the very beginning with the application of a lean government concept, the promotion of public-private partnerships, agencification, etc. Regulatory reform was a natural part of their agenda.

2.2.2 *Reform dynamics*

The reform process started with the issue of quantity of regulation, later moving to the issue of their quality, and ending with efforts to improve the legislative process (Musa 2014, 18). The first phase started in 2006 when a special unit for regulatory guillotine (*Hitrorez*) was established on a project base, not as a part of ordinary government machinery.⁶ The goals were the legal elimination of all unnecessary regulations and the improvement of harmonization and coordination within the legal system. The expected outcome was reduced regulatory and law enforcement costs for businesses and better investment and business climate.

The following activities were planned: a) identification of all regulations in the business sector, b) analysis focused on those regulations which were assessed as the obstacle for business efficiency and those which imposed unnecessary burden and caused unjustified costs for businesses, and c) design of the recommendations for regulatory simplification and elimination of unnecessary regulations. The deregulation project dealt with “labour legislation, industry sector legislation, commercial

5 https://ec.europa.eu/info/law/law-making-process/planning-and-proposing-law/better-regulation-why-and-how_en.

6 The term “regulatory guillotine” is used by the Croatian Office for Legislation in the English version of official documents. The same term is used by OECD for describing that particular Croatian case (cf. OECD 2007).

law and registers of companies, pension and health-care systems, and consumer protection” (Petak 2015, 157, fn. 10).

A special unit for Hitrorez enjoyed firm political support of the Government and Prime Minister Sanader. Hence, it was perceived as a rather powerful *ad hoc* body. Ministries and other public bodies were willing to cooperate. Expectedly, firm support was received from business chambers and associations, because regulatory guillotine was initiated by the National Competitiveness Council. It was financed by the Croatian Government, the USAID, the UNDP, the Foreign Investment Advisory Service of the World Bank (FIAS), the Croatian Chamber of Economy, the Croatian Chamber of Crafts, and the Croatian Employers’ Association. Although planned as a rather small and operative task force, it gathered around 250 team members, including those temporarily borrowed from the sectoral ministries.

After the formal completion of the Hitrorez project and the dissolution of the project team⁷, the Croatian Government established the Office for Regulatory Impact Assessment (RIA) in July 2007. Although its establishment was presented as a result of the Hitrorez project, it stemmed from the previously adopted obligations of introducing regulatory impact assessment. Namely, the Croatian Government adopted RIA obligations by its Rules of Procedure of 2005, influenced by the World Bank’s Programmatic Adjustment Loan (PAL I) approved in September 2005.⁸

The new Office was not fully effective because of unknown reasons until February 2009, although seven people were employed and they got all the necessary technical equipment and offices at an attractive location in Zagreb (“complicated structuring” according to Petak 2015, 157). Finally, the Government abolished the Office for non-transparent and ineffective operation on 30 July 2009, after a short but intensive media campaign based on the arguments of non-transparent, ineffective, well-paid and incompetent bureaucracy (Banić 2009). The Government put forward the austerity argument and the need for better coordination for moving RIA tasks to the Ministry of Public Administration.

The Law on RIA adopted in 2011 finally designated RIA to the Government Legislation Office, while the Ministry of Finance is responsible for fiscal impact assessment. RIA encompasses the assessment of impacts on the economy, socially sensitive and other groups with special interests and needs, and on the environment and sustainable development. Along with regulatory impact assessment, planning legislative activities is another tool for improving the legislative process introduced by the Law on RIA of 2011. The first legislative plan was adopted by the Government in December 2012. Annual reporting about RIA by the Legislation Office was

7 The Croatian Government adopted the Action Plan for Reducing Administrative Burden of Economy only in January 2017. The reduction of administrative burden by 30 per cent and removing obstacles to the free market of services by the end of 2017 in correspondence with EU Directive 123/2006 are the goals of the Action Plan.

8 <http://projects.worldbank.org/P082278/croatia-programmatic-adjustment-loan?lang=en>.

introduced by the Law. The Law also introduced obligatory public consultations about new regulations.

In 2012, the Strategy of RIA and the Decree on RIA were adopted by the Government. The new Law on RIA, in force from May 2017, widened and more precisely regulated the methodology, the competences and the procedures of the RIA system. It imposes the obligation of conducting regulatory impact assessment of the following impacts: economic, social, impact on the labour market, environment protection, protection of human rights, and competition. It provided for the adoption of the new Strategy of RIA no later than November 2017, but such a document has not been adopted yet. The Government adopted a new Decree on RIA in June 2017.

The new Decree of 2017 allows ex-post review of legislation (titled “Exceptional conduct of RIA”). Ex-post review is completely in the hands of sectoral ministries. They are free to decide on conducting it, except when certain sectoral laws introduce mandatory ex-post review of legislation. Currently there are 13 such laws. There is still not a single ex-post review published, nor is there a plan for any general ex-post review of legislation.

The quality of the policy process has been an issue for more than a decade and began with the warnings given by the World Bank experts and then included in the State Administration Reform Strategy 2008–2011. The Strategy issued policy betterment as one of the main areas of reform within the title “Improving quality of programmes, laws and other regulations: better legal system”. Better inter-ministerial coordination, participation of interested public, and regulatory impact assessment were mentioned among the measures for improving the quality of public policies. The new Strategy of Public Administration Development, adopted in 2015 for the period 2015–2020, describes the problems with the public policy system in detail. Betterment of public policies is established as one of the reform measures. It includes the establishment of a governmental body for inter-ministerial coordination in the policy-making process, harmonization of policies with strategic goals, and monitoring of public policies’ implementation. Although it was planned for the end of 2015, such a body has not been established yet.

2.2.3 *Reform results*

Despite a public campaign, support of the Government and other interested actors, the regulatory guillotine project Hitrorez had rather modest results. As many as 2,688 regulations were considered⁹, 706 of which were recommended to be abolished and 865 to be simplified. The Government formally accepted 1,571 rec-

⁹ There is an assessment that there are about 14,000 regulations for businesses in Croatia, but at the beginning of the Hitrorez project only 7,598 were identified. Why that project was unable to list all of them remained unknown. Also, the reasons why the project narrowed the scope to only 2,688 are not known. See more at <http://mrak.org/tag/hitrorez/>.

ommendations.¹⁰ After two years, only 366 recommendations were implemented (23.3 %) (Musa 2014). According to the FIAS, it resulted in the saving of 381 million kuna (50.5 Mio€). The head of a special unit for Hitrorez mentioned that the initial assessment of savings was approximately 1.5 billion kuna (198.8 Mio€).¹¹

It is interesting that the same amount of savings is announced in the new Action Plan for Reducing Administrative Burden for the Economy of 2017. By applying the Standard Cost Model, the total administrative burden in eight regulatory sectors was established at the level of 5 billion kuna (663 Mio€). There are no reports on the realization of the Action Plan. Despite the adoption of the Action Plan and other reform measures, Croatia dropped from 43rd place in 2016 (72.99 points) to 51st place in 2017 (71.7 points) on the World Bank's Doing Business list.

The regulatory impact assessment system has been fully effective as of 2013, but there are two categories of legislative projects, one which needs to be complemented by RIA and another which does not need to be complemented by RIA (cf. Zelenika 2014). According to the annual Government reports for 2013–2016, the number of planned legislative activities in the latter category outweighs the number of planned legislative activities in the former (see Table 1). Only 202 out of 572 planned legislative activities had to be complemented by RIA (35.3 per cent). Their share in the total number of planned legislative activities ranged from 45.9 per cent in 2013 to only 28.1 per cent in 2016.

It should be noted that not all of the planned legislative activities were realized. On the contrary, only 26.4 per cent of the planned legislative projects were realized, indicating also serious problems with legislative planning as a legislative betterment tool. The total number of planned legislative activities in 2013–2016 was 572, and only 151 were realized.

Beside the 151 realized, previously planned legislative activities, the Government also realized an additional 548 non-planned legislative activities in the period from 2013 to 2016. Realized, previously planned legislative activities represented on average a share of 21.6 per cent of all legislation adopted, ranging from 13.1 per cent in 2013 to 37.9 per cent in 2016. The rest stood for ad-hoc legislative activities (548, or 78.4 per cent). To conclude, planned activities were not realized in a large majority of cases (421 out of 572), while the non-planned legislative activities (548 of them) took place. The reasons are probably fast-changing political priorities

10 Zelenika (2014, 13) presented even more modest results. According to his paper, a total of 1,451 regulations were analyzed, and 799 recommendations for streamlining, amending or abrogating individual regulations were submitted to the Government. Only 366 were accepted, resulting in the abrogation of 219 regulations and streamlining of 147 of them.

11 The Head of the regulatory guillotine special unit was able to sell the regulatory guillotine software and project design as the product of his company in 17 countries by 2014. See at <http://slobodnadalmacija.hr/novosti/hrvatska/clanak/id/252049/hitrorez-drzavi-mozestjedjeti-dvije-milijarde-kuna-godisnje>.

and weak planning capacity in state administration. Having in mind subsequent changes in political coalition in 2017, a similar result may be expected for that year.

Out of 202 planned legislative activities which ought to be complemented by RIA, only 40 were realized in the four-year period. In addition, in 2015 five out of 92 non-planned legislative activities were accompanied by RIA. In total, only 45 legislative projects were accompanied by RIA in the period from 2013 to 2016, only 6.4 per cent of total realized legislative activities. It may be concluded that despite continuous improvement of the RIA system, certain problems remain and prevent more successful realization.

Table 1
Legislative activities in Croatia in the period from 2013 to 2016

Year	Planned	Realized	Not realized	RIA needed	RIA not needed	RIA realized	RIA of ad hoc	Total RIA	Ad hoc	Total realized
	a	b	a-b	c	a-c	d	e	d+e	g	b+g
2013	133	45	88	61	72	21	-	21	299	344
2014	143	43	100	45	98	8	-	8	93	136
2015	75	24	51	34	41	3	5	8	92	116
2016	221	39	182	62	159	8	-	8	64	103
Total	572	151	421	202	370	40		45	548	699

Source: author's calculation on the basis of the Government's annual reports available at <https://zakonodavstvo.gov.hr/godisnji-plan-normativnih-aktivnosti/229>.

It is not clear whether the main reason is the fast-changing political strategy of the Government or a lack of its firm political priorities that leads to more reactive agenda-setting and the realization of ad-hoc legislative projects. Another reason is poor institutional setting, as may easily be concluded. The Legislative Office is not the proper institution for performing RIA. That has already been addressed in the Public Administration Development Strategy, but without any result so far. Furthermore, it seems that RIA capacity in sectoral ministries is low, which leads ministries and the Government to a conclusion that in the majority of cases RIA is not necessary. Finally, the whole legislative betterment policy is grasped with heavy formalism; it is not easy to promote a new public policy and legislative betterment culture that relies on new policy expertise in the legalistic culture of the centre of government. Although the centre of government has accepted the new approach and the new tools, it successfully adapted them to the traditional model of administrative formalism.

Beside the administrative and regulatory simplification, Croatia has continuously promoted public consultations. However, there is still no move towards analyzing alternatives to legislation, evidence-based policy-making is weak (Petak 2015), and the evaluation of policies is almost non-existent, except in scientific literature (see for example Koprić and Đulabić 2018). The lack of an evaluative approach is recognized in the 2015–2020 Public Administration Development Strategy. It requires the establishment of a comprehensive monitoring and evaluation system in Croatia until 2020.

The Croatian Parliament adopted guidelines for writing legislation (*Jedinstvena metodološko-nomotehnička pravila za izradu akata koje donosi Hrvatski sabor*) in June 2015 as a legislation betterment measure with potentially highly positive effects. They were published in Official Gazette no. 74/2015 and entered into force on 1 September 2015. However, there are no moves towards uniform procedures, guidelines or manuals for policy-making, coordination of public policies, ex-post evaluation of legislation, or evaluation of public policies.

3. Conclusion

Croatia has shown rather expected consequences of its mixed administrative traditions. The tradition inherited from the pre-socialist period is mainly based on the continental European “Weberian” model of state bureaucracy impregnated with legalism, formalism, rigid leadership and discipline. The tradition from socialism partly deviates from that of other former socialist countries because of the well-known self-management experiment, which raised a sense for citizens’ participation in local matters and issues of minor importance. However, similar to the other socialist countries, there was a parallel system of coordination in the most important aspects of public governance, through the dominant political party based on arbitrary political will in a quasi-dictatorial manner. That is probably why over-politicization co-exists with legalism, formalism and red tape. One of the results is low reform, innovation and initiative capacities.

Despite many reform initiatives and efforts, Croatia is still positioned among the countries with moderate competitiveness and inefficient public administration. According to the World Economic Forum’s Global Competitiveness Report 2016–17, Croatia is ranked 74th, with a score of 4.15 points out of 7, slightly improving its status in comparison with the previous year (77th place, score 4.07). Fragmented and inefficient public administration characterized by low cost-effectiveness and large public expenditures significantly contributes to such assessments. Many assessments indicate a slow pace of administrative modernization and many other problems. It even seems that without strict conditionality and firm monitoring the reform in the post-accession period slowed down.

However, certain administrative reform results have been achieved. There is substantial progress observable in transparency, openness and accountability policies, especially after the beginning of the formal EU accession process. The results have been much better after the first ever Public Information Commissioner was appointed by the Parliament in 2013. The Commissioner has put considerable efforts into the establishment of an effective system of public transparency. However, there is some resistance from public bodies and institutions with regard to the new transparency and accountability mechanisms.

EU accession has significantly influenced the content and development of transparency and openness policy in Croatia. The long accession period, firm monitoring and support from the EU side provided time for its continuous development and gave it the status of an inevitable component of harmonization of the Croatian public administration with the European values, principles, standards and policies (cf. Koprić 2017c).

The economic and financial crisis, which hit Croatia hard in 2008–2014, did not have a direct influence on the development of transparency and openness policy but certainly made the general public, the media, the civic society, and the citizens sensitive about the unnecessary spending and non-transparent functioning of public bodies. In such a way it created a social milieu supportive of the development of transparency and openness policy. Political instability, populism, and illiberal tendencies might endanger such a policy, making previous achievements and standards vulnerable.

Well-designed regulation is of great importance for the quality and prospects of transparency and openness policy. Constitutional incorporation of the right to access public sector information makes innovations in public administration transparency more sustainable. An appropriate, precise, and comprehensive legal frame gives the proponents of transparency and openness, be they part of the state institutional machinery or civil society, necessary tools and instruments for pressure aimed at continuous betterment.

Proper institutional arrangements which rely on independent bodies are of crucial importance for the successful implementation of transparency and openness policy, as is shown in the Croatian case. The Public Information Commissioner is a focal institutional point. Other bodies, such as the OGP Council or the Office for Cooperation with NGOs, may serve as the necessary supporters and linking pins with governmental machinery. But only independent bodies are able to preserve good standards, resist political influences, cope with resistance, and effectively impose new transparency and openness standards. Proactive officials leading such bodies are the most important asset.

Critical junctures may open windows of opportunity for necessary reforms, as shown by the Croatian example (Sanader's government's sudden collapse in 2009). Success chances are better if in that moment there are proactive and innovative

civil society actors and supportive academia. Bodies with rather broad membership and mission such as the OGP Council may significantly add to the policy success. However, the cooperative culture of such bodies, a clear vision of their members, and planning capacity are necessary for the realization of their potentials. The role of civil sector organizations and independent media is inevitable for the effective implementation of transparency and openness policy.

Contrary to the case of transparency and openness policy the main driver of regulatory reform during the 2000s was the New Public Management doctrine, consequently promoted then by the two Governments led by Prime Minister Ivo Sanader (HDZ). The regulatory guillotine project Hitrorez, aimed at administrative and regulatory simplification, was but one of the NPM-inspired administrative reforms in Croatia at that time. The maturity of deregulation policy led towards the policy betterment with regulatory impact assessment as one of the main instruments. The initial phase of RIA introduction was influenced by the World Bank, as it was part of the agreed administrative reforms contracted through the PAL I and II programmes. It may be concluded that in the beginning, legislative reform was a result of the usual situation in which external influences contribute to the realization of political concepts of domestic actors. Doctrinal influence was complemented by a loan for financing the new policy orientation.

It is visible from this case development that weak administrative capacity in combination with legalistic administrative culture and constant although low-profile bureaucratic resistance to bumptious reforms may calm these reforms down and delay their full effects. However, incremental reforms, such as the reform of the legislative process in Croatia, are among the possible reform styles. It has not been proved that fast reforms are better than incremental ones from a sustainability point of view. Incremental reforms can easily achieve certain deeper, cultural changes which may add to a better sustainability of their results. It seems that the unfortunate example of the first Office for Regulatory Impact Assessment confirms such a hypothesis, at least in the context of Croatian governance.

It is important to “normalize” administrative and regulatory simplification and include them in the scope of the centre of government machinery. Having in mind that the implementation of the Public Administration Reform Strategy 2015–2020 does not respect the implementation scheme, it is recommendable to begin with the most important reform activities in regard to the betterment of public policies and improving legislative process, such as:

- a. To separate the Office for RIA from the Legislative Office, and to widen its scope in order to encompass ex-ante RIA, ex-post evaluation of legislation, and coordination, monitoring and evaluation of public policies;
- b. To insist on better legislative planning;
- c. To widen the coverage of RIA;

- d. To establish new streams of in-service training for RIA, ex-post evaluation of legislation, policy coordination, and evaluation of public policies;
- e. To engage a pool of RIA, policy and evaluation experts from outside state administration, including academia.

However, the question still exists: which would be the other reform policy cases, besides transparency and regulatory reform policies, which have a potential to serve as the administrative modernization drivers in Croatia? Moreover, will these two candles be able to illuminate the darkness of the rather traditional and resistant Croatian bureaucracy?

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