

## Chapter 7

# THE READINESS OF THE PUBLIC ADMINISTRATION FOR EUROPEAN UNION ACCESSION

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## ABSTRACT

Institution building is crucial for successful integration into the European Union (EU). Through the Stabilization and Association Agreement (SAA), Croatia bound itself to strengthen institutions at all levels in the area of the administration, priority areas being protection of competition and state aid.

According to the demands that the EU has made on the public administrations of the accession countries in the pre-accession period, we shall identify the criteria for membership. We shall define the level of the fulfilment of conditions for membership and the measures that should be carried out during the process of the reform in Croatia by a comparative analysis of the state of affairs in Croatia, the candidates and the EU members. The main conclusion is that institutional weakness in Croatia is the outcome of failure to define the priorities and the timetable for the implementation of given reforms.

### **Key words:**

public administration, market competition, institutional criteria for membership, single market, European Union, Croatia, candidates

*\* The views expressed herein are the standpoint of the author, are not binding upon the institution in which she works, and do not necessarily coincide with the official views of the Croatian Energy Regulatory Council (VRED).*

## INTRODUCTION

The objective of this paper is to analyse the role of the public administration in meeting the economic criteria for membership in the EU. The concept of *public administration* in this work refers to the institutions necessary for the enforcement of the rules, the focus being on institutions that are charged with positive action at the national level (Table 1).<sup>i</sup>

*Table 1 The Public Administration in Croatia\**

Ministries	State administration		Other bodies
	State administration organisations	Offices of the Government	Legal entities with public authorities*
- foreign affairs	State Geodetic Directorate	- for internal supervision	Agency for the protection of market competition
- interior	State Directorate for Water	- for Internetisation	Securities Commission
- defence	Management State Weather	- for state property	Agency for Supervision of Pension Funds and Insurance Companies (HAGENA)
- European integration		- for national minorities	
- finance		- for public relations	
- economy	Bureau State Institute for the protection of family, maternity and youth	- for social partnership	
- Croatian homeland war veterans		- for development strategy	
- public works, reconstruction and construction	State intellectual property office	- for legislation	State Agency for Deposit Insurance and Bank rehabilitation
- culture		- for cooperation with NGOs	
- trades, SMEs	State bureau of standards and metrology	- for prevention of drug abuse	Directorate for supervision of insurance companies (DINADOS)
- agriculture and forestry		- for cooperation with the ICTY	
- maritime affairs, transport and communications	Central Bureau of Statistics	- for cooperation with international institutions	Central Register of Insured Persons (REGOS)
- justice, administration and local self-government	State Inspector's Office	- for detainees and missing persons	Telecommunications Council**
- environmental protection, urban development and construction		- of the Government's agent at the European Court of Human Rights in Strasbourg	Radio and TV Council**
- education and sports			Croatian Energy Regulatory Council
- labour and social welfare			
- tourism			
- health			
- science and technology			

\* *The Table shows the public administration that is the subject of this paper. It does not include offices of the state administration at the local level (county offices of the state administration or local self-government). Not all the bodies with public authorities are shown in the table, only those that have regulatory authorities according to OECD criteria (OECD, 2003). The government categorises the public sector differently. See [www.vlada.hr](http://www.vlada.hr).*

\*\* *According to the new Telecommunications Law (NN 122/03), the authorities of the Telecommunications and Radio and Television councils should be assumed by the Croatian Telecommunications Agency.*

At the outset we shall present the conditions for membership and analyse the role of the public administration in the attainment of them. In accordance with the criteria for membership and the role of the public administration in attaining them, in the second part we shall identify elements capable of being used to evaluate the ability of the public administration to fulfil the membership criteria. In the third part, on the basis of elements thus identified, we shall evaluate the level to which the public administration in Croatia meets the membership criteria, and to the extent possible make comparisons with the candidates and with the members. The fourth part is focused on the points of vulnerability of Croatia, and will help conclusions and recommendations to be made at the end of the paper.

## **THE ROLE OF THE PUBLIC ADMINISTRATION IN SATISFYING EUROPEAN UNION CRITERIA**

According to the Founding Treaty<sup>ii</sup> (Articles 6 and 49), any European state that respects the principles of liberty, democracy, respect for human rights and fundamental freedoms, and the rule of law may apply to become a Member of the Union. A candidate has to meet other criteria too, as defined by the European Council in Copenhagen in 1993. Usually political, economic and legal criteria are stated, although the candidates are also required to accept the objectives of economic and monetary union. The fifth criterion for membership is the ability of the EU to accept new members. The Copenhagen criteria were additionally explained at a meeting of the European Council in Madrid in 1995, when, *inter alia*, the institutional criterion was also expressly laid down (Table 2).

The institutional requirement is implicit in the Copenhagen criteria: the political criterion (stability of institutions guaranteeing democracy, and the rule of law) and the *acquis* criterion (implementation of Union legislation) together imply the institutional criterion, *i.e.*, the effective implementation of rules harmonised with the EU. At the same time, an evaluation of the ability of the EU to accept new members is based on the capacity of EU institutions to take in the representatives of the new members without the effectiveness of decision-making being diminished (Table 2). In Madrid the European Council actually hig-

Table 2 Criteria for membership

Description	Element for evaluation
1. Amsterdam criteria*	
Geographic	European state
Political	Respect for liberty, democracy, human rights, rule of law
2. Copenhagen criteria	
Political achieve stability of institutions that guarantee the rule of law	<ul style="list-style-type: none"> <li>– description of various institutions (parliament, executive, judiciary)</li> <li>– examination of way in which individual rights and freedoms are exercised in practice</li> </ul>
Economic existence of market economy	<ul style="list-style-type: none"> <li>prices and trade are liberalised</li> <li>– significant barriers to market entry (establishment of new firms) and exit (bankruptcies, liquidations) are absent</li> <li>– enforceable legal system, including property rights, is in place</li> <li>– achieved macroeconomic stability including adequate price stability, sustainable public finance and external accounts</li> <li>– broad consensus about the essentials of economic policy</li> <li>– sufficiently well developed financial sector to channel savings towards productive investment</li> </ul>
development of capacity to cope with competitive pressure and market forces within the Union	<ul style="list-style-type: none"> <li>adaptability of enterprises</li> <li>– existence of functioning market economy with sufficient degree of macroeconomic stability for economic agents to make decisions in a climate of stability and predictability</li> <li>– sufficient amount, at an appropriate cost, of human and physical capital, including infrastructure, education and research and future development in this field</li> <li>– the extent to which government policy and legislation influences competitiveness (trade policy, competition policy, state aid, support for SMEs)</li> <li>– degree and pace of trade integration a country achieves with the with the EU before enlargement (volume and nature of goods already traded with Member States)</li> <li>– proportion of SMEs, partly because SMEs tend to benefit more from improved market access, and partly because a dominance of large firms could indicate a greater reluctance to adjust (European Commission, 1997)</li> </ul>
Legal adopt the <i>acquis</i>	<ul style="list-style-type: none"> <li>– screening – harmonisation of national legislation with the <i>acquis</i></li> </ul>

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Adherence to the aims of objectives of economic, political and monetary union	– defined during negotiations
Ability of EU to take in new members	– implementation of EU institutional reforms making possible the functioning of an enlarged EU – adoption of a budget for enlargement – adoption and implementation of reforms of given policies (agricultural, structural)

### 3. Madrid Criteria

Institutional Effective application of legislation through appropriate administrative and judicial structure	– specific demands on institutions are made if adjustments in terms of Copenhagen are ineffective
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*\* Amsterdam criteria are those contained in the founding treaties; they were supplemented through the Amsterdam revision, but I quote them under these names (not as criteria from the founding treaty) for the sake of consistency, because they are so referred to in official documents in Croatia.*

highlighted the importance of the implementation of regulations and the role of institutions, while no additions to the criteria for membership were made. This can be seen in the method of monitoring the progress of the candidates, the European Commission tracking this according to the Copenhagen criteria. No explicit element for evaluating a candidate's harmonisation with Madrid exists, while the assessment of institutional progress is based on the degree of success with which the Copenhagen criteria are met. This is the result of the fact that a considerable part of the law of the Community consists of directives and that the EU respects the principle of subsidiarity. A directive is binding, as to the result to be achieved, upon each Member State to which it is addressed, but leaves to the national authorities the choice of form and methods. At the same time, the principle of subsidiarity is the principle whereby the Union does not take action (except in the areas which fall within its exclusive competence) unless it is more effective than action taken at national, regional or local level. It is closely bound up with the principles of proportionality and necessity, which require that any action by the Union should not go beyond what is necessary to achieve the objectives of the Treaty. For this reason, at the EU level harmonisation of institutions is limited in a small number of areas, and candidates are expected to fulfil the conditions, themselves selecting the necessary measures and the manner of achieving them. The EU gives explicit recom-

recommendations about the organisation of given bodies of the public administration in candidates in the advanced phase of progress monitoring, when it gets to know in greater detail the state of affairs in each of the candidates. These recommendations are based on an analysis of specific problems of the given state or institution. Thus the institutional demands that the EU made on candidates in the beginning of the negotiations process were general – such as consolidation of democracy and strengthening public administration. With the development of the integration process, these demands were formulated more openly, and for example, the Accession Partnership with Estonia in 2001 identified the need to increase the number of staff in the statistical department of the audit office.

Membership criteria are also contained in the conditions for the institutional relations between the EU and states that are not included in the enlargement process. In the development of relations with third countries, the EU applies the principle of conditionality, attaching particular importance to the political conditions. Delays in meeting these hold up further progress in the commercial and institutional links with the EU.

The political criterion for the progress of these relations is the same for each country: establishment of the rule of law, i.e., stability of those institutions that guarantee the enforcement of the law. Various levels of meeting this requirement are reflected in the diversity of levels of relations with the EU. For countries included in the stabilisation and association process, including Croatia, there is explicit mention of the obligation to respect peace agreements, cooperation with the ICTY and the return of refugees. However, this is not, like the conclusions of the Madrid European Council, adding a criterion for membership, rather interpreting existing criteria on an individual basis.

Depending on the level of the fulfilment of criteria for a conditional approach to states in the stabilisation and association process, six levels of fulfilment of the conditions for membership (Table 3) can be identified. The first condition is necessary for the approval of unilateral trade preferences. The second is necessary for the establishment of institutional relations. The third, for candidate status, implies the achievement of a higher level of fulfilment of political criteria for membership than for the establishment of institutional relations. The progress of negotiations and accession are conditional upon further progress in harmonisation with the standards and practice of the EU.

Hence, to be included into the structures of the EU it is essential to achieve an adequate level of harmonisation with political conditions,

while speed of subsequent economic integration depends on progress towards the meeting of the economic and legal conditions for membership.

*Table 3 Conditional approach of the European Union to the candidates and the states of the Western Balkans*

Candidates	Western Balkans
Candidate status	Trade preferences
Start of negotiations	Institutional relation
Progress of negotiations	Candidate status
Invitation to join	Opening of negotiations
	Progress of negotiations
	Joining the EU

Economic integration into the EU is one of the aims of the SAP. Hence, successful harmonisation with EU *acquis* in the area of the single market should enable the gradual inclusion of Croatia into the structures of the EU. A precondition for progress in this process is meeting the political criteria. Respect for the obligations of the peace agreements, return of refugees and other political criteria do not directly affect the fulfilment of the economic conditions for membership. Still, these criteria indicate the credibility of institutions in general. On the other hand, failure to respect obligations assumed puts a brake on the development of relations and thus restricts the potential to make use of the positive effects of integration into the EU.

The Implementation Plan for the SAA identifies the Government, the MFA and the government bodies as responsible for fulfilment of the Copenhagen and Amsterdam criteria and conditions.<sup>iii</sup> Hence, in the process of integration into the EU, the public administration bodies have a crucial role.

## **ELEMENTS FOR THE ASSESSMENT OF THE CAPACITY OF THE PUBLIC ADMINISTRATION**

In line with the Copenhagen criteria, elements for the evaluation of success in fulfilling the political, economic and legal criteria and in accepting the policies of the EU are evaluated.

We identified the elements for an assessment of the success of the public administration on the basis of the Reports on the progress towards accession by each of the candidate countries, Accession Partnerships, Action Plans for strengthening administrative and judicial structures and analysis of projects financed by PHARE. According to these documents, we identified elements common to all candidates in the integration process, and the individual political elements on which progress in the integration process depends (Table 4).

*Table 4 Sources for comparison of the state of affairs in Croatia, the candidates and the European Union*

EU	Candidates	Croatia
– Reports of the European Commission on implementation of EU policies:	– Progress Reports	– European Commission Report on implementation of the SAP
– State Aid Scoreboard	– Accession partnership	– Implementation plan for the SAA
– 2002 Reviews of the Internal Market Strategy	– Action plan for administrative and judicial capacity	– National programme for the integration of Croatia into the EU
– Internal Market Scoreboard	– PHARE projects	– Plan of harmonisation of legislation
– Internal Market Infringements		– Projects financed via CARDS

## Political criteria

In line with the conditionality principle in the development of relations with the EU, belatedness in respecting political criteria was the main reason why candidates of the Helsinki group<sup>iv</sup> started negotiations about membership two years later than the Luxembourg group<sup>v</sup> and why Turkey has had candidate status since 1997<sup>vi</sup> but is not negotiating about membership. The political problems that hold up the progress of each state are individual. For this reason we shall put the elements for the assessment of the extent to which political criteria are met into two groups: common and individual elements.

Each country has to meet *common elements* for the sake of progress of relations with the EU. Meeting these elements is a necessary but not sufficient condition for progress in relations. When the common

elements are met, the conditions have been created for the establishment of an efficient public administration. These include:

- the establishment of a legal framework relating to the civil service;
- the separation of political from administrative functions;
- provision of ongoing training for civil servants, senior and junior (for which, however, the establishment of a national education programme is necessary);
- definition of public access to information;
- strengthening of financial control;
- development of the fight against corruption.

The EU identifies the individual elements for each country as a separate entity, according to the problems specific to that country.

## **Economic criteria**

The tasks of the public administration for the sake of fulfilling the first economic criterion, that is the *development of the market economy* (Table 2), are as follows:

- making it possible to register new companies in a simple way;
- compliance with bankruptcy legislation;
- effective property rights, which implies development of real estate registers and cadastres and an effective judiciary;
- consensus on the direction of economic policy.

The tasks of the public administration with respect to meeting the second economic criterion for membership, i.e., *development of the ability to cope with competitive pressures and market forces*, primarily involve efficient implementation of policies that have been adopted (trade policy, competition policy, state aid, support to SMEs). For this the following are required:

- strengthening of the financial sector;
- reform of the public finance management system;
- strengthening of the customs and tax administrations (e.g., for implementation of measures of trade policy, including agreements on free trade, efficient recovery of tax);
- harmonisation and surveillance of the system of state aid;

- harmonisation of the competition policy with EU rules and their enforcement, which also implies the establishment and strengthening of economic regulators; and
- reduction of the level of the grey economy.

## Legal adjustments

For fulfilment of the *political criteria* it is essential to respect the fundamental principles of the Community. This further entails the establishment of a legal framework capable of guaranteeing democracy, the respect for human and minority rights and equality between men and women.

For fulfilment of economic criteria, the development of the capacity to participate in the single market is necessary, and the key legal adjustments in this area are connected with adjustments to the single market. Hence, legal adjustments are a precondition for the fulfilment of the political and economic conditions for membership. For Croatia the legal adjustment priorities are laid down in the SAA. They include the areas listed earlier: respect for the fundamental principles of the Community and adjustment to the single market. Adjustment to the single market assumes approximation of legislation in 11 areas,<sup>vii</sup> including:

- competition (including matters related to state monopolies and sectoral regulators, company law, control of mergers and liberalisation of transport) and state aid;
- industrial, intellectual and commercial property;
- public procurement; and
- legislation regarding technology, including standardisation, metrology, accreditation and conformity assessment (Mayhew, 2003).

Harmonisation of a legal system with the EU Commission analyses the extent to which the necessary legislative measures have been taken to enable implementation of the *acquis* and what remains to be done in this regard. The Commission also assesses whether administrative structures required to implement the *acquis* have been established.

## **Adherence to the aims of economic, political and monetary union**

The readiness of candidates to take on the objectives of economic, political and monetary union is assessed in the course of the accession negotiations. The issues concerning public administration are mainly dealt with in negotiating Chapter 30, Institutions, and Chapter 31, other matters. In this paper, these matters are covered in the part dealing with the ability of institutions to accept the new *acquis*.

### **HARMONISATION OF THE PUBLIC ADMINISTRATION IN CROATIA WITH THE CONDITIONS FOR MEMBERSHIP**

Progress of relations with the EU, i.e. economic integration into the EU is conditional upon fulfilment of the political membership criteria. For this reason we shall first of all determine the level to which the political elements are met, for these are, according to the experience of the candidates, crucial for progress in the integration process. However, as can be seen from the elements previously identified for the analysis of the fulfilment of the political, economic and legal conditions for membership, they overlap. For example, the fight against corruption requires that the legal framework for the public administration (e.g., the manner of recruitment) is defined, the information that is accessible to the public is identified, the level of the grey economy is reduced and that the judiciary is effective. Similarly, strengthening financial control includes the strengthening of the financial sector and the implementation of the requisite legal adjustments. For this reason in the sequel the division into legal and economic elements is retained only for the sake of the easier tracking of the elements identified. In substance, however, an evaluation of the political elements necessary takes in the economic elements, and to the extent in which this is necessary for understanding it also includes legal elements as well as the objectives of accepting the policy of the Community. Such an approach is prompted by the fact that the legal system makes possible the implementation of the policies defined, and the level at which the economic conditions for membership can be met depends on the success of its implementation. In the conclusion (Table 8), according to the analysis carried out in accordance

with the elements, we determine the level of success of the public administration vis-à-vis the meeting of the conditions for membership.

Since it is the European Commission that evaluates the readiness of candidates for accession, wherever possible we have used Commission data (Table 3) for the identification of the situation in and the progress of Croatia.

Alongside these, according to an analysis of the specific features of Croatia, and through a comparison of the other states of the western Balkans that are subject to the stabilisation and association process, we have identified other elements that might affect the success of the adjustment process.

## Political criteria

*Establishment of the legal framework for the public administration.* The legal framework for the public administration has been established in all the candidates. In Croatia, these matters are governed by the Government Officials and Employees Law (NN 30/01) and the Obligations and Rights of Government Officials Law (NN 101/97, 135/98, 105/99, 25/00, 73/00, 30/01, 59/01, 114/01 and 153/02).<sup>viii</sup>

*Separation of political and administrative functions.* Advance in this area is uneven in the candidates. In some, but not in all, candidates a code of conduct has been established, and there are clear distinctions between political and administrative functions. In Croatia, politically appointed officials (government officials) are clearly distinguished from career civil servants (government employees) by the two laws mentioned above. At the EU level clear rules for work in institutions were defined after the report about the frauds, bad management and nepotism in the European Commission in 1999 (Code of Conduct for Commissioners, Code of Conduct for Co-operation of Commissioners and the Departments with which they are Charged, Procedural Regulations, Regulations for International Co-operation, Principles of Establishment of Groups of Commissioners, Rules of Promotion, more in IMO, 2001-2003, No. 45).

*Personnel training.* In all of the candidates, personnel training programmes have been established. In Croatia the Government has identified raising the level of the knowledge and capacity of personnel as one of the preconditions for success in joining the EU, and has asked all bodies of the administration to analyse their personnel and professional readiness for

the process of integration. The analysis was carried out in March 2001, but the training programme has still not been made (MEI, 2003). Since the official target date for the necessary adjustments for EU membership is the end of 2006, more than two years to work out a training programme is certainly too long. In terms of this element, Croatia lags behind the candidates. In Bulgaria, for example, the training programme was set up and the Commission in its report of 2001 found that progress had been made in training, particularly of personnel for the supervision of public finances, but that judges had to be trained about Community law.

In addition, the training of public servants is an element that can be used for an analysis of the second economic criterion for membership, i.e., the capacity to cope with competitive pressure within the Union. Fulfilment of this criterion is evaluated according to the existence, in a sufficient amount and at appropriate costs, of human capital, including education and future development. Thus 30% of the assistance from PHARE in the pre-accession period has been directed towards institution building. Projects related to the strengthening of administrative structures are carried out within the framework of the CARDS programme. CARDS 2001 co-finances the Reform of the public administration project, which was inaugurated in November 2002. This project includes the analysis of the necessary programmes for training and rewards systems in the public administration. Projects related to the strengthening of the administrative structures are also envisaged under CARDS 2002. These projects are scheduled to start in the second half of 2003, and to be finalised in 2004 and 2005. Priorities and activities of the CARDS 2002 programme are comparable with the priorities of the accession partnerships (Table 5)

*Table 5 Priorities in the candidates and the countries of the Western Balkans*

	Countries of the Western Balkans	The candidates
Priorities identified	Democratic stabilisation Economic and social development Justice and home affairs Strengthening administrative capacity Protection of environment and natural resources	Economic policy Economic reform Strengthening administrative capacity Single market
Financial and technical assistance	CARDS	PHARE

However, although CARDS, just like PHARE, does make possible the co-financing of necessary reforms, a difficulty is found in the capacity to absorb such assistance. For the implementation of programmes and use of assistance there has to be an adequate level of institutional capacity in drawing up the project proposal, defining terms of reference for its implementation, reporting on implementation and so on. The experience of candidates shows that in the initial years of the implementation of PHARE a problem lay in thinking up, proposing and monitoring projects. In Poland, for example, more than half of the PHARE resources were unused because of the inability of institutions to create and propose projects. The same thing is going on in Croatia, in which the elaboration of an EU cooperation strategy in the area of technical assistance was about one year late (instead of in December 2001, as planned, it was completed in December 2002). Budget rebalancing in 2003 redirected resources of the Ministry of Justice, Public administration and local self-government to other purposes, because the projects for which the resources had been provided were not launched. And here it is very indicative that it is the Ministry that is actually in charge of the public administration reform project implementation.

For the institution building, it is important that, in addition to civil servants, the decision-makers too are acquainted with the features of the integration process. In Croatia, the MEI is charged with preparing the decision makers for the role that they have in the integration process, through a communication strategy. On the other hand, though, because of the desire for quick legal adjustments, the Parliament's Standing Orders (NN 117/01) enable a law that is being adjusted to the *acquis* to be passed in the "urgent procedure". This means that first and second readings are combined: in the same reading, amendments have to be both discussed and decided on. This procedure is not limited to priority SAA areas. According to the Government's Standing Orders (NN 107/00), all laws that the Government proposes have to be adjusted with EU *acquis*. Hence the Government can seek the urgent procedure for every single law that it proposes. Since in this procedure the ability to analyse the proposed amendments and/or their adjustment with EU regulations is limited, these provisions enable, in practice, the very reverse of what is desired to be achieved. At the same time, limiting debate makes the understanding of the integration process and the demands that it makes more difficult at all levels – from the decision makers to the general public that follows their work. The urgent procedure in addition enables a perception that in the framework of the "Eu-

ropean laws” some laws are passed that are not necessary for integration process but for the attainment of “ordinary” political objectives.

*Definition of information accessible to the public.* The public nature of the work of institutions at the EU level was set up in the beginning of the 1990s, in line with the conclusions of the Edinburgh European Council, since the Official Journal of the European Communities has been publishing results of the voting in the Council and information whose publication is not obligatory. The legal framework has been created in all the candidates to create access to information, while in Croatia the application of the Access to Information Law has still to start. At the same time, the openness of institutions is used as instrument in the fight against corruption and organised crime. Since 1999, i.e., since the resignation of the Santer Commission,<sup>ix</sup> increasing attention at the EU level has been devoted to the openness of EU institutions. Openness, alongside the definition of a code of conduct, the strengthening of financial control and the establishment of the new European Anti-Fraud Office (OLAF) has become an important tool in the suppression of irregularities within the EU.

*Strengthening financial control.* In common to the candidates is that reform of the financial sector and the public finance system is the greatest of the difficulties in the pre-accession period. The Government Officials and Employees Law and the Obligations and Rights of Government Officials Law have set up a stringent and unified wages regime as part of an endeavour to limit the costs and to enable financial control. Still, the financing of public administration is not transparent. This is the result of a weak system for the allocation of budgetary resources, which right up to 2001 was based on an allocation of budgetary resources in terms of institution, and not according to an economic classification or according programmes of work clearly set out in advance. Because of the lack of any clearly determined programmes of the work of the public administration it was thus impossible to work out indicators or to track the quality and performance of its work. For this reason reform of the budgetary system of 2001, and the orientation to a budget according to programmes, creates a good basis for the quantification and performance measurement of the way the activities of the public administration are carried out.

At the EU level, since 1999, budgetary reform has been under way. In 2004, for the first time, the budget will be based exclusively in terms of activities. The main objective of drawing up a budget in this way is the distribution of resources in line with political objectives that

have been defined in advance. For this reason the determination of priorities, planning, drawing up the budget, monitoring and reporting go on within every activity.

*Fight against corruption.* At the EU level, since the 1999 reform, a special anti-fraud office was established (OLAF). Its partners in EU countries are customs or tax administration/offices, and in the candidates, the police, finance ministries and/or their offices (e.g. budget office, customs administration). In Croatia corresponding measures are being taken for the fight against corruption and organised crime, and international standards are gradually being accepted. The criminal law convention of the Council of Europe concerning corruption was ratified in 2000 (NN Treaties 11/00), and the civil law convention in 2003 (NN Treaties 6/03). Since 2001 Croatia has been included in the implementation of the Initiative against organised crime in South-East Europe within the context of the Stability Pact. In 2002 the Programme for the Suppression of Corruption and the Law on the Office for the Suppression of Corruption and Organised Crime (known as USKOK) were adopted. These measures enabled a more effective fight against corruption. Harmonisation of Croatian standards with international conventions, and their enforcement, beefing up the capacity for prevention, investigation and prosecution, and the fight against corruption have been identified as priority areas in the Croatian fight against organised crime ([www.fco.gov.uk/files/kfile.Croatia.pdf](http://www.fco.gov.uk/files/kfile.Croatia.pdf)). In spite of this, the perception of corruption (defined as abuse of public power for private benefit), according to the index used by Transparency International, is greater in Croatia than in EU member states, and is comparable with the situation in Bulgaria, Poland, Czech Republic, Latvia and Slovakia.

## Individual elements

To illustrate kind of difficulties that can hamper the further development of relations with the EU, less advanced candidates have been chosen as examples.

*Romania.* Inadequate childcare institutions. The 1999 regular report urged the government to provide sufficient financial provision and reaffirmed the principle that institutionalised children's access to decent living conditions and basic health care is a human rights issue.

*Turkey.* Inadequate respect for human and minority rights and lack of civil control of the army. Human rights infringements are pro-

nounced in the jails, and there is the problem of the protection of the rights of Kurds. For this reason the EU demanded improved conditions in prisons, and in the reports of the Commission explicit reference was made to the problem of the execution of the death sentence meted out to Kurdish leader Abdullah Ocalan.

*Croatia.* The basic hurdles to progress are the cooperation with the Hague (the Gotovina case), the return of refugees, and their property. The level to which Croatia meets the political criteria, particularly those related to the ICTY, defined by the Council of the EU in 1997, will be crucial for the acceptance of its candidature (Prodi, 2003).

## Economic criteria

*Registration procedure.* In the candidates, removal of barriers to market entry (establishment of new firms) has reached a satisfactory degree of effectiveness and legal security. To make market entry easier in Croatia, the SAA Implementation Plan looks to a revision of the Court Register Act and the formulation of Rules on the manner of making entries in the court register by the end of 2004.

*Table 6 Starting a business; Institutional indicators*

	Duration (days)	Number of administrative procedures	Cost (in USD)
Croatia	50	13	843
Austria	29	9	1,534
Belgium	56	7	2,633
Czech Republic	88	10	648
Slovenia	61	10	1,518
Slovakia	98	10	401

*Source: World Bank (2003:2)*

As the details in Table 6 show, the process of starting up a firm in Croatia includes a large number of administrative procedures. In spite of this, the duration and cost are not greater than in the accession countries.

*Bankruptcies.* In most of the candidates, there have been advances in the bankruptcy procedure, and the Commission marks them as satisfactory. In Croatia, however, the Commission thinks advance in this area is limited because of the inadequate protection of property rights (more detail below).

Table 7 Closing a business; Bankruptcy variables

	Actual time (in years)	Cost (% of estate)	Efficient outcome achieved *	Court power Index**
Croatia	3.1	18	50	67
Austria	1.3	18	71	33
Belgium	0.9	4	93	67
Czech Republic	9.2	38	22	0
Slovenia	3.7	18	41	67
Slovakia	4.5	18	71	67

\* The index is in a range of 1-100, 100 showing perfect efficiency (Finland, Norway and Singapore have 99), 0 means that the insolvency system does not function.

\*\* The index is an average of three indicators: whether the court appoints and replaces the insolvency administrator, whether the reports of the administrator are accessible only to court and not creditors, and whether the court decides on the adoption of the rehabilitation plan. Higher values indicate more court involvement in the insolvency process, which is associated with more time and higher cost to go through insolvency, as well as less likelihood of achieving the efficient outcome.

Source: World Bank (2003:2)

The data in Table 7 show that the bankruptcy procedure is longer in Croatia than in the EU, while in terms of the indicators shown, Croatia does not lag behind the candidates in the success of the bankruptcy procedure.

*Regulation of property rights.* In the candidates, property laws have been set up. The development of the cadastre is a common problem for the candidates. In Croatia, the main challenge in this area is the establishment of a viable legal system, but the reform of the judiciary and the land registers is behind the deadlines envisaged. For example, the adoption of Rules on transition from manual to electronic processing of land registers, which is quite essential for modernisation, is more than a year late.

The implementation of the project for putting in order the cadastral and the land registers should provide for better protection of property rights and contractual relations, and at the same time make it easier for the courts to be effective, and to manage bankruptcies. At the same time, implementation of the project should help in the reduction of backlogs in the settling of land register items in the municipal courts. With this the real property registration and cadastre project has a direct impact on the effectiveness of the public administration. In addition, augmentation of the security of property rights will create conditions for the development of the private sector and indirectly make entry into the market easier (World Bank, 2002). The scope and importance of

the cadastre and land register reform are illustrated by the fact that the project is envisaged as lasting 15 years. For the first five years of the implementation of the project, the World Bank has earmarked a loan of 26 million euros.

*Consensus about the essentials of economic policy.* This element holds back the progress of Croatia in the meeting of economic conditions for membership. The Government of the Republic of Croatia has established a special office to coordinate matters of making a strategy (Table 1), and 14 strategies have been accepted by the Parliament in the framework of the *Croatia in the 21<sup>st</sup> Century* Project. An UNDP study (UNDP, 2002) showed that in Croatia, since independence, more than 100 strategies have been created. Yet these strategies are only multiplied, never applied. The same thing has happened with the reform of the public administration strategy. This strategy had been developed in the framework of the *Croatia in the 21<sup>st</sup> Century* Project and has been published on the Government's official web site ([www.hrvatska21.hr](http://www.hrvatska21.hr)), but not accepted. In the accession countries, acceptance of the objectives of economic and monetary union during the negotiations led to the definition of the direction of economic policy. Thus consensus about integration with the EU lays the assumptions for the consensus on the essentials of economic policy.

*Implementation of accepted principles.* As previously identified, in Croatia, although strategies are quick to be made, the implementation of them is not efficient. There are no instructions for the implementation of accepted strategies, and they themselves do not define with sufficient clarity who should make them and in what periods of time. A transparent manner for monitoring progress has been set up in the candidates, and this was particularly the case in the pre-accession period.

*Level of grey economy.* The level of the grey economy has a direct effect on the implementation of market laws. When the underground economy makes up a large proportion of GDP this is an indicator of ineffective market mechanisms and inefficiency of the public administration in the implementation of its (particularly fiscal) functions (Bajec, 2001).<sup>x</sup> The Croatian Bureau of Statistics has published estimates according to which in 1998 the grey economy reached 11.3% of official GDP, and in 1999 10.3% (DZS, 2002). An analysis of differing indicators carried out by Johnson and Kaufmann (2001) shows that in most cases the evaluation of the level of the grey economy is based, among other things, on the estimate of the level of corruption.<sup>xi</sup> According to empirical results (Johnson, Kaufmann and Ziodo-Lobaton,

1998) the level of the unofficial economy is strongly correlated with the corruption perception index (CPI) used by Transparency International ( $r=0.76$ ). Since the CPI for Croatia has been in constant decline since 1999, we can conclude that the level of the grey economy is dropping too. The results of the project *Underground Economy in Croatia 1990-2000* (IJF, 2002) point in the same direction.

Although comparison of the level of the grey economy among countries is very unreliable, according to a frequently quoted estimate (Schneider, 2003), in 2000-2001, the size of the grey economy in Croatia, of 32.4% of GDP is comparable with that of Bulgaria (36.4%) and Romania (33.4%), greater than in the accession countries (e.g., Hungary, 24.4%)<sup>xii</sup> and members of the EU (e.g., Denmark, 17.9%, France 15%, the greatest share being in Greece, 28.5%), but still smaller than in other countries in the West Balkans (e.g., FYR Macedonia 45.1%).

*Strengthening customs and tax administrations.* The strengthening of customs administrations is essential for the sake of the implementation of the trade policy in which Croatia has made considerable advances. Progress is manifested by inclusion in regional, bilateral and multilateral organisations and through trade liberalisation. All the candidates have concluded a customs cooperation agreement with the EU. Croatia is still at the beginning of this process. The strengthening of customs and tax administrations is essential for the sake of the successful implementation of formal liberalisation, the reduction of the grey economy and so on. The EU helps the development of customs, tax administrations and police in the candidates through twinning projects.<sup>xiii</sup> The first such project in Croatia has already been launched. However, the weakness of the customs administration and police can also be seen in failure to meet the political criteria (the Gotovina case).

*Harmonisation of the state aid system with the EU and surveillance of their provision.* State aid in Croatia is high (5.25% GDP as against 1.01% in the EU) and sector-oriented (transport, shipbuilding, tourism), while horizontal aid (meant for correction of market failure and meant for all firms, such as research and development, environment protection) is three times as little as in the EU (Kesner-Škreb, Pleše and Mikić, 2003). During the gradual integration into the EU state aid has to be reduced and the principles for its provision will have to be harmonised with principles in the EU. In the SAA implementation plan the establishment of a new and independent State Aid Agency for the surveillance of aid was anticipated by December 2001. In the State Aid Law (NN 47/03) this assignment was allotted to the Agency for the Protec-

tion of Market Competition. Thus, during the implementation, which was more than a year later than the deadlines laid down, the institutional structure previously determined was modified. The change in the basic institutional framework as against that previously planned shows that the proposal was not well prepared, or that political interests prevailed. Both possible reasons show the proposal of regulations without a clear image of how they will be used to achieve the aims, i.e., they show the weakness of the public administration.<sup>xiv</sup> In addition, since the passing of the Law, no department has been set up in the Agency to establish a state aid register. In all the candidates, bodies charged with monitoring state aid are established. They are parts of ministries (Estonia, Bulgaria), agency for the protection of market competition (Lithuania, Poland), or are set up as special bodies (Hungary, Latvia, Slovakia). In the EU, the register of aid has been since 2001 publicly available via the Internet ([http://europa.eu.int/comm/competition/state\\_aid/register](http://europa.eu.int/comm/competition/state_aid/register)), and decisions of whether a given item of state aid is in key with the rules of the single market is made by the European Commission.

*Harmonisation of competition policy with EU rules and establishment of economic regulators.* In the area of the application of the rules of market competition, a key role is played by the development of market institutions. The institutional precondition for the establishment of a market economy and the achievement of economic growth is the establishment of a market structure and the existence of government intervention only in the case of market failure, i.e., government failure in redistribution (Srinivasan, 1999). The task of market institutions is to supervise the liberalisation of the market and to follow the implementation of regulations; they include bodies for the protection of competition and sectoral regulators (finance, telecommunications, energy). Such institutions in the EU member states and in the candidates are organised as special departments in ministries or as independent bodies. In the EU member states, market institutions started being founded mainly in the 1980s and 1990s; the establishment of independent bodies helped in the strengthening of legal certainty by the limitation of opportunities for political interventionism (OECD, 2003). The independence of market institutions from politics is crucial to attract investors in sectors that were recently liberalised and privatised (transport, energy, and telecommunications) in countries with a developed market economy, and investment in general in the transitional countries. However, independent institutions are not necessarily credible in states with an inefficient legal system. This may be improved by setting out explicit objec-

tives and requirements for reporting to Parliament and government, such as procedural requirements and substantive judicial review (op. cit). In transitional countries, market institutions also facilitate privatisation, which is usually linked with effectiveness. However, “privatising in the absence of a sufficient, market-supporting institutional infrastructure was a serious mistake that could and did lead more to asset stripping than wealth creation.” (Stiglitz, 1999).

In Croatia basic market institutions have been set up: the Agency for the Protection of Market Competition, the Telecommunications Council and the Radio and Television Council, the Croatian Energy Regulatory Council. In the area of financial services, some of the regulatory functions are carried out by the Croatian National Bank, and some special bodies have been set up, such as the Directorate for the Supervision of Insurance Companies, the Securities Commission. Pensions reform spurred the foundation of the Central Register of Insured Persons, known as REGOS, and the Agency for Supervision of Pensions Funds and Insurance Companies (HAGENA) (Table 1).

Bodies with comparable authorities were set up in the candidates and in the EU members, and the differences are in the organisation (for example, the Slovene Office for the Protection of Competition is an agency of a ministry, while in most countries these are independent regulators or civil service bodies) and manner of financing (from the Budget or from the fees they can charge). In areas that have been recently liberalised (telecommunications, energy) the harmonisation of the accession states with the *acquis* is in some cases greater than in EU members. It would seem that harmonisation with the recent *acquis* is more effective in the accession countries, primarily because of the conditionality laid down. Thus all the accession countries have energy-regulating bodies, but Germany does not (see OECD, 2003 for more details).

Most of the market institutions in Croatia are formally independent, but the government controls their work by the acceptance of annual reports on their work and through acceptance of their financial plans and financial reports. However, in the procedure for approving financial reports the Government applies principles that are used in the ministries, and thus affects the priorities and activities, as well as the efficiency, of these bodies, not to mention the overall assessment of meeting membership criteria. That is, in an assessment of the capacity of a candidate to cope with competitive pressures and market forces within the EU, an important role is played by the degree to which government

policy and legislation have an impact on competitiveness through trade policy, competition policy and aid (Table 2). Thus the influence of the Government on market institutions might considerably limit the ability of Croatia to meet the conditions for membership.

## **POINTS OF VULNERABILITY IN THE CROATIAN PUBLIC ADMINISTRATION**

In the process of integration into the EU a key role is played by the respect for the obligations from the conditional approach and the SAA. In the first Stabilisation and Association Report the European Commission said that “adequate law enforcement remains one of the major problems. There is a worrying tendency to fail to implement not only politically sensitive court decisions but also more generally. The challenge is to develop an efficient mechanism to ensure implementation of decisions.” (European Commission, 2002a)

The second report underlines the progress, but the Commission says that “Croatia needs to pay special attention to strengthening its public administration with a view to ensuring that the relevant ministries and other public authorities are in position properly to implement the numerous legislative reforms to which Croatia has committed itself.” (European Commission 2003b).

In terms of size, the Croatian civil service should be big enough for the implementation of the planned measures. An illustrative fact is that Austria has 11 ministries, Czech Republic 13, Slovenia 14, Poland 15 and Croatia 19 (Table 1). At the EU level there are 24 directorates general, which functionally correspond to ministries. That means that in Croatia we have a large number of ministries, and in addition, between 1991 and 2002 the number of units of local and regional government rose from 104 to 560. In Croatia the general government bill comes to 11.1% of GDP. Expenditure for general public services came to 2.9% of GDP in 2002. Thus the fact that a public administration, on whose pay over 11% of GDP is spent, is not capable of putting through the necessary reforms, shows that in Croatia the administration is massive and expensive.

By the SAA Croatia obliged itself to carry out the adjustment necessary for associate membership during the transition period of six years. The deadlines set forth in the SAA are mainly at the end of the transition period. This should ensure that at the initial phase the appro-

priate preparations are taken, among which one of the key ones is the modernisation of the public administration with the objective of making it more effective.

However, the Implementation Plan for the SAA concentrates the main part of the measures foreseen in the first years of the implementation. Authorities responsible to carry out these measures are the same bodies of the public administration that themselves need reforming. At the same time, the National Plan for the Integration of the Republic of Croatia into the European Union supplements Implementation Plan for the SAA with measures necessary for adjustment to the whole EU system during the six-year period. This kind of approach reflects the intention of filling all the criteria for EU membership by the end of 2006. However, the delays identified in the second regular semi-annual report in the key areas of reform – of the judiciary, of state aid and the public administration reform (Vlada RH, 2002a) all threaten the process of integration into the EU. That is, the fulfilment of all Amsterdam and Copenhagen criteria is coordinated by the Government, while it is the bodies of the public administration that are charged with the implementation of them. Since for a successful integration process an efficient public administration is required, the delay in the implementation of its reform (modernisation and increase of effectiveness) threatens the integration.

The National Plan identifies the need to qualify the existing and the founding of new, independent and competent bodies, and to make sure that they can work (through provision of premises, financing and equipment). It says that for this purpose it is necessary to have “a considerable increase of the number of employees as against the existing situation, and to give them basic and specialist training”. And yet no mention is made of any reduction of workers in the existing public administration. Reform of the budget, so that it is directed towards programmes and results in the mid-term period, should be a good foundation for stabilisation, and even reduction, of the growth of employment in the administration.

Effectiveness and its connection with the financing of given institutions is an important element in the modernisation of the public administration. The documents of the Government published to date do not provide for the introduction of performance criteria in the public administration, do not systematically identify which bodies should be reorganised and how, and who should monitor the implementation of new regulations. MEI is charged with the coordination of the making of

regulations and tracks them up to the moment they are sent to Parliament. After that, the procedure is not monitored, and it can happen that the ministries charged with the implementation do not make the necessary detailed regulations and instructions, and such failures are never penalised. In the formally independent institutions, through an application of the control mechanism of approving the financial plan, the Government directly affects the effectiveness and action priorities of these bodies. In a Conclusion of April 2003, the Government obligated the regulatory bodies (Agency for Protection of Market Competition, Securities Commission, Insurance Companies Control Directorate, Telecommunications Council, and the Croatian Energy Regulatory Council) to draw up their financial plans based on the same principles that are valid in the ministries (according to the costs method, without any built-in methods for monitoring effectiveness). Further, the government limited the amount of funds for each individual item of the financial plan per employee at the level of the ministries, so that it should not be greater than those in the ministry that has the greatest expenditure per employee for the same item. Linking this amount with the greatest amount per employee creates an incentive for the hiring of a large number of poorly trained and badly paid administrative and auxiliary personnel and/or an irrational raising of costs up to the items that exist in the ministries.

In the same Conclusion the Government obliged the regulatory bodies to pay the difference between revenue and expenditure into the national Budget. Thus the government redefined the regulatory bodies that are not financed from the budget, making them not non-profit but profit-making bodies, the profits of which go to the owner (the state). Although the approach that assumes supervision of the Government over the financial plans and reports is justified because of the inefficient legal system and the accountability for possible abuse, on the other hand the lack of effectiveness of the Government restricts the work in these bodies too. Finally, according to the Government Law (Article 30 Paragraph 3), the Government should not give individual instruction to independent bodies. By breaking this rule (as in example for drawing up a budget) legal certainty, already shaken by frequent changes of laws, is additionally reduced.

For example, the Telecommunications Council was set up in 2001 by the Telecommunications Act Amendments Law (NN 68/01). During the procedure of the selection of commissioners, the term of office was reduced from five to two years (NN 109/01), and the first pe-

riod will be over at the end of 2003. In the meantime, a new law has been passed, and the Council will actually cease to exist, these affairs being taken over by the Croatian Telecommunications Agency. The new Telecommunications Law was adopted during the process of the privatisation of Croatian Television Channel 3, and the best tender was chosen by the members of the Radio and Television Council. This Council will also soon become defunct and its authorities too will be taken over by the Croatian Telecommunications Agency.

Next, reviews of regulations about regulatory bodies and market institutions do away with the ability of independent experts to take part in their work, because all the functions are “professionalised”, that is, all experts have to be engaged full-time (the Protection of Market Competition Law regulates the function of the members for the Council for the Protection of Market Competition, and the Telecommunications Law regulates the functions in the Croatian Telecommunications Agency). Full time work is not in itself bad and in theory allows individuals to commit themselves to the full. Still, according to OECD research, in small countries with limited resources, it is harder to ensure the effective work of independent and professional regulators (OECD, 2003). In addition, bearing in mind the condition in the public administration, the intentions of the Government to equalise the wages with the wages of civil servants and to make the budgets in these bodies as in the ministries, not to encourage professional development and training, such provisions might lead to a reduction of the professional level of these bodies.

Finally, through change in the institutional framework, changes in the practice of implementation become feasible, and a space is opened for speculation about whether changes in the law are linked with personnel changes, whether they are a form of political pressure and/or if the new legal framework that provides for the professionalisation of the performance of these duties is a way of increasing the subservience of these *independent* regulators to political pressures.

## CONCLUSION AND RECOMMENDATIONS

Since the country became independent, the only serious reform of the public administration in Croatia has been its expansion. The large number of ministries has led to the fragmentation of action and makes coordination more difficult. The result is weak effectiveness and lack of

trust in the public administration. At the same time, frequent changes in the laws that govern the work of bodies with public authorities increase the instability of institutions charged with the enforcement of the laws.

The Government has recognised that an effective public administration is crucial for the implementation of regulations after they have been adopted. However, in the implementation of reform, difficulties have shown up. First, the strategy for the development of the public administration has not been defined. From this derives the on-going need for adjustments, which leads to legal uncertainty. This in turn reduces the credibility of the institutions and strengthens the need to supervise them, which exceeds the Government's capacity. Secondly, effectiveness is not monitored, financial control is poor, and the budget is based on costs. Difficulties in these areas are experienced by the accession countries, individual EU members and institutions at the level of the EU. The differences are in the level of these problems, i.e., to what measure they limit the success of performing the tasks of the public administration. In accordance with the overall assessment of the European Commission, in line with the conditional approach, Croatia is comparable with the Helsinki Group as they were just before the beginning of negotiations in 1999. The main obstacle to further integration into the EU is the weakness of the institutions charged with the effective collaboration with the ICTY and with the implementation of other obligations from the peace agreements, i.e., the individual elements for the judgement of harmonisation with political criteria (Table 8).

According to the elements for the assessment of the public administration during the fulfilment of the economic conditions for membership, Croatia lags behind the candidates and the member states primarily in the implementation of measures necessary for adjustment to the single market (e.g., institutions charged with the monitoring of the giving of state aid). A comparison of the priorities of PHARE and CARDS shows that the problems Croatia is facing are comparable with those of the candidates during the adjustment period. The later start of harmonisation explains the lower level achieved to date.

Reform of the public administration should enable to create the conditions for effective implementation of reforms in other areas, too. This would increase the effectiveness of the public administration, allow deadlines to be met and increase credibility of the government.<sup>xv</sup> Experience of the accession states and of technical and financial assistance might speed up this process. Meanwhile, a key role in the process of strengthening the public administration will be played by the

*Table 8 Assessment of the success of the public administration in Croatia related to meeting conditions for membership\**

I Political criteria	☹
a) Common elements	☹
establishment of a legal framework for public administration	☹
separation of political from administrative functions	☹
provision of on-going training for civil servants	☹
definition of material to which the public has access	☹!
strengthening financial control	☹✓
development of the fight against corruption	☹✓
b) Individual elements	
respecting peace agreements	☹
cooperation with ICTY	☹
return of refugees	☹✓
II Economic criteria	☹
a) Development of market economy	☹
simple registration of firms	☹✓
effective bankruptcies	☹✓
effective regulation of property rights	☹
consensus about the direction of economic policy	☹
b) Capacity to cope with competitive pressure and market forces within EU	☹
strengthening the financial sector	☹✓
reform of the system of public finances	☹
strengthening tax and customs administrations	☹!
establishing state aid rules and monitoring their implementation	☹
harmonising competition policy with the rules of the EU	☹
diminishing the size of the grey economy	☹✓

*\*The public administration in Croatia is evaluated as being successful in cases when according to the indicators considered it is comparable with the candidates invited to become members of the EU.*

Key:

☹ *meets the conditions for membership*

☹! *formally does meet the conditions, implementation needs monitoring*

☹✓ *a level adequate for membership has not been achieved, nevertheless some progress can be seen*

☹ *does not meet conditions for membership*

planning and preparation of reform. To increase the effectiveness of the public administration and its contribution to joining the EU, the following recommendations can be made:

- Define the objectives of public administration reform, order and deadlines for single measures;

- Define and separate the authorities of the various public administration bodies and those of institutions with public authorities (clarify the institutional framework);
- According to the objectives and assignments of the public administration and the institutions with public authorities, lay down their organisation;
- Reduce the number of ministries to make coordination easier;
- Determine performance criteria and relate institutional budgets to them;
- Gradually introduce budgeting in terms of activities;
- Monitoring reforms in all phases in implementation (as opposed to no further than the legislative phase);
- For each measure, appoint just one body, and not several, to be charged with the coordination;
- Reduce the engagement of the Government in managing reforms that are not priorities for the sake of improving its effectiveness; and
- Strengthen the independence of the independent bodies and the transparency of their work.

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- i* The courts and other institutions that have the authority to hand out sanctions are certainly important for an effective implementation of the regulations. Still, this paper is concentrated on the ability to carry through the regulations, not on the effectiveness with which failures are penalised.
  - ii* The founding treaty means the Treaty of Nice, or the Treaty Establishing the European Community, consolidated version, with amendments agreed on at the meeting of the European Council in Nice (European Council, 2000:1).
  - iii* The term conditions here and elsewhere in the text, mentioned in conjunction with membership criteria, imply the conditions from the EU's regional approach, i.e., the obligations to respect peace agreements, work with the ICTY, and create the conditions for the return of refugees.
  - iv* This concerns Slovakia, Latvia, Lithuania, Bulgaria, Romania and Malta, who started membership negotiations after the European Council meeting in Helsinki in December 1999. For all the countries except for Malta the reason for the later beginning of the negotiations was the failure to meet political criteria. In 1996 Malta put its application, originally submitted in 1990, on hold, but reactivated it in 1998.
  - v* These are Czech Republic, Estonia, Hungary, Poland, Slovenia and Cyprus, which started membership negotiations in 1998, in line with the decision of the European Council in Luxembourg, December 1997.
  - vi* Turkey signed an association agreement in 1963. It handed in an application for membership in 1987, but the European Commission in its first opinion concerning Turkey's candidacy was against starting negotiations. The Luxembourg European Council confirmed that Turkey was a candidate, and since 1998 Turkey has been gradually brought into programmes meant for candidates. The first accession partnership was accepted in March 2001.

- vii *These are: market competition and state aid, intellectual, industrial and commercial property, public procurement, standardisation, metrology, accreditation and conformity assessment, consumer protection, company law, accounting law, financial services, land transport, health and safety at work, data security.*
- viii *The assessment of whether the public administration in Croatia enables the fulfilment of these political and economic criteria is shown in Table 8.*
- ix *All 20 members of the Commission and its president Jacques Santer resigned in 1999 immediately after the publication of an independent report concerning claims about fraud, bad management and nepotism in the work of the Commission (see Euroscope no. 42).*
- x *As stated in the introduction, some of the indicators overlap. For a comparison of the level of the grey economy, proxies are corruption and effectiveness of the customs and tax administrations indicators.*
- xi *The research covered 9 indicators that were developed by different institutions. Six of them were based on the level of corruption.*
- xii *Latvia is an exception; the level of grey economy is estimated at 39.6%.*
- xiii *Twinning programmes enable the exchange of know-how between experts in the specific area in the recipient country and the EU member country. This assistance instrument was developed in PHARE for the development of the institutional capacity of candidates in the pre-accession period, and is also applied in the framework of the CARDS programme.*
- xiv *This example also indicates the overlapping of indicators of public administration performance – for example, of the implementation of accepted principles as general requirement for individual demand for adjustment to the given areas of the acquis.*
- xv *For example, the Energy Law provided for the Ministry adopting the necessary sub-laws in a period of 6 months, and that the operators in the energy field should obtain their licenses for carrying out their activity. However, the Economics Ministry did not adopt any detailed regulations, and reform was not carried out. The only effect of the passing of this law was to increase legal uncertainty, because the laws that were passed were never put into effect.*

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