



SIGMA

Support for Improvement in Governance and Management

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ASSESSMENT

Croatia

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DEMOCRACY AND THE RULE OF LAW

The Government's actions during the period under review focused on recovering from recession, stabilising government finances and securing EU accession. Despite weak public support, the Government is aiming to complete the technical phase of the negotiations with the EU by the end of 2010. Considering the close prospect of accession, administrative actions must be more and more judged against the level required for being a member (rather than for becoming one).

The Government's reaction to the economic crisis will constrain governance reform. Current public administration reform efforts seem to be only weakly supported and their scope is too limited relative to the challenges.

Democracy

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

Croatia lags behind other countries of the region in setting up an effective system for access to information. Although a working group has been established to prepare amendments to current laws, the real issue is implementation.

Rule of Law

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

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

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

Constitution

No constitutional amendments have been introduced and adopted during the period under review. The amendment of the Constitution to guarantee the existence and independence of the Supreme Audit Office has been put on the agenda of the Parliament but has still not been discussed.

Parliament

Parliament continues to play a limited role in controlling the executive, but a few initiatives (including the setting up of corruption-related enquiry commissions) could indicate that some progress has been made in this area. Further attention has been given to the reports of the State Audit Office (SAO), including the one on budget execution. The dispersion of rules on MPs'

incompatibilities, through the laws on Election and on Conflict of Interest, is an obstacle to the compliance with, and enforcement of the legislation.

Government

The formal quality of legislation seems to be appropriately ensured through the action of the government's Office of Legislation, which also plays a role in the strengthening of law-drafting capacities in ministries and other state administration bodies. However, besides the general weakness of the legal framework, the situation regarding consultations with potentially affected parties during the law-making process and the timely and adequate assessment of the potential impacts (fiscal, economic, social and environmental) of draft laws and regulations submitted to the government is unsatisfactory.

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

Public Administration

Positive developments have taken place in the area of administrative law and the potential for further improvements in the administration is also increasing. Two examples are the establishment of a separate Ministry of Administration and the entry into force of the new Law on General Administrative Procedure, which create better conditions for political visibility and guidance of the public administration reform process. This law could lead to change, provided that it is correctly enforced and monitored.

For the time being, the new ministry's capacity is still being developed, both in terms of human resources, organisation and functioning and as a key player in the overall process. Due to the country's difficult economic situation and the many challenging tasks that need to be undertaken in the short term, this capacity development is a gradual and demanding change.

Croatia has embarked on substantial and important reforms in both public expenditure management (PEM) through the Treasury Strategy, and public internal financial control (PIFC) through the PIFC Strategy. The prospect of EU membership in the coming years clearly has a positive impact on the readiness to implement the necessary changes, although the pace of these changes has slowed down in 2009.

Judiciary

Changes to the judicial system were also made at the end of 2009, through the Law on the Judicial Academy, amendments to the Law on Courts, the Law on the State Judicial Council, and the new Law on State Prosecution. The new training and examination system for recruiting judges and prosecutors should contribute to increasing professionalism and independence in the judiciary. However, its implementation should be carefully monitored. The new Rules of Procedure for Courts entered into force on 1 January 2010. Among other measures, these Rules provide for the establishment of special departments for criminal cases dealing with corruption and organised crime. The new Law on Administrative Disputes was adopted on 29 January 2010 and will come into force on 1 January 2012. This law is an important step forward in the introduction of an administrative justice system in line with European standards. Whether the required new courts, judges and staff are allocated sufficient resources is a matter of concern.

Anti-corruption Policy

A number of positive developments and actions in this area should be seen as evidence of a more effective functioning of mechanisms and instruments of political accountability. Croatia has shown that strong political commitment in fighting corruption and promoting integrity can increase the impetus for reforming institutions, legislation and attitudes, in spite of a less favourable economic environment. Implementation and consolidation should now be the priorities, which will require a clear identification of the most relevant actions and a strict allocation of resources.