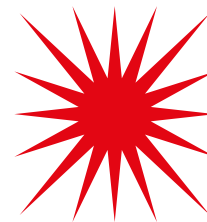


Assessment of Serbia's progress in meeting the political criteria in the scope of the EU negotiation



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Many a paper – makes a subject

A reflection on the public administration reform



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“Administration tailored for all of us” is a message of the ongoing advertising campaign seen on TV, billboards and trams. It is funded by the EU. Is our administration serious about this? Fifteen years since the beginning of the reform, the results are barely visible from the citizens’ point of view. You still have to “walk” from counter to counter for the majority of public administration services. The majority of adopted regulations has little impact in practice. It is still a mystery of how big is the public administration. Despite the ban on public sector employment, the alternative methods, such as fixed-term employment contract, are still used as instruments for manipulating the number of employees. As mentioned earlier, this is yet another measure imposed through the conditioning of the foreign actors – the IMF. Finally, what will our public administration undertake to become more efficient and professional?

Ambitious strategic and legal framework

The focus of mid-term planning of the Government is to reduce public administration, in fact, to rationalise it to the proper measure and increase the efficiency through improved financial management and public service provision. Serbian Government recognises the public administration reform as one of the key priorities in the horizontal document planning. In the exposé of Serbian Prime Minister from 28 June 2017¹, “increasing public administration efficiency” is mentioned as one of the six key areas of the Government focus during her mandate. Based on SIGMA findings in 2017², the Action plan for Public Administration Reform for the period 2018-2020 was adopted, rectifying main objections of the international experts, by including the detailed cost estimation for each activity in the Action plan, as well as the source of funding. The following strategic documents have been adopted: Public Administration Reform Strategy and the Action Plan for 2018-2020, Public Financial Management Reform Programme for 2016-2020, E-government Development Strategy of the Republic of Serbia for 2015-2018, which meant including the two out of the three pillars of sectoral strategies (public financial management, decentralisation and e-government). According to the Action plan for Public Administration Reform, the activities relating to the Decentralisation Strategy were expected to be completed in the second quarter of 2016, with a developed Action plan in the first quarter of 2017. This document has not been produced to this day. It is reasonable to conclude that public administration invests a lot of effort to adopt documents that are to be “backbone” of the reform process. The documents are here, but about their quality and who is exactly behind such good intentions –the foreign actors again or the public administration itself?

Quality and structure of the strategic planning

In Serbia, the majority of structures which are essential for a well organised system of policy-making have been already established, except the coordination on the content of the policies proposals. In practice, the planning and reporting processes are overdue. The public accessibility of information on the application of various plans (including the strategies) is seriously lacking. The Government has adopted the Regulatory Reform and Improved Public

1 Government of the Republic of Serbia programme for Prime Minister candidate Ana Brnabic, National Assembly of RS, 28 June 2017,

https://www.srbija.gov.rs/view_file.php?file_id=2148&cache=sr

2 Monitoring report: The principles of public administration, Serbia 2017, SIGMA

Policy Management Strategy 2016-2020 to promote policy development and planning, but the implementation of this strategy has not yet produced any significant change in the system. When it comes to policy planning, the institutions of the central government lack coordination. Representatives of main government institutions submit opinions on the document drafts separately without any prior mutual agreement. Several institutions have been delegated with the policy planning process: General Secretariat of the Government, Public Policy Secretariat and Ministry of European Integration. The main challenge identified concerns the capacity of the administration to develop good-quality policies and laws. Less than 30% of the total number of employees in specific ministries is working on policy development³. Adopting strategic documents is mostly an ad hoc process managed by experts. There is no clear hierarchy between the planning documents and various levels of prioritisation (strategical, policy and operational), so the functional link between different strategies remain weak. A concept of assessing policy impact is a novelty in the Serbian state administration system. Assessing policies, as an integral part of the policy cycle, is currently not treated separately either through laws or policy instruments.

Regulatory Impact Analysis

Although regulatory impact analysis has been applied for a long time, since the Government Rules of Procedure amendment in 2004, the level of its application is still not satisfactory. The problems were not appropriately defined in the majority of explanations, as many do not include the analysis of the alternative regulatory solutions and almost by a rule, they fail to indicate the cost-benefit analysis. However, the regulatory impact analysis appears to be yet another formality that should be fulfilled when preparing the explanation of the draft laws, instead of being a useful instrument in the decision making, and it seems that many civil servants lack sufficient training to carry out regulatory impact analysis and knowledge on how to present the analysis⁴. To ensure the regulatory impact analysis, the Government has formed Regulatory Reform Council intending to carry out quality control of the regulatory impact analysis implementation. Through subsequent amendments, it was transformed into Public Policy Secretariat of the Republic of Serbia. Working groups for drawing up specific regulations are facing the following problems: goals are not well defined, the political decision had been already made when they start working on the regulations, thus limiting the choice and the alternatives, the deadlines for drawing up the regulations are short, so the consultation process is either not implemented or turned into pure formality, the regulations are being made exclusively from the point of view of the government, with insufficient impact analysis for the market or stakeholders by neglecting the implementation risk analysis. The analysis is usually prepared at the very end of the drafting process, by the public servants who did not participate in the law preparation process and lack the input on how specific decisions were made. As with the majority of other mechanisms aiming to promote the existing practice, this one is no exception as regards the understanding of its importance. At the moment when many laws are adopted under the urgent procedure failing to comply with the basic elements of the process, regulatory impact analysis continues to be treated as an unnecessary difficulty, its application being postponed for better times.

3 Monitoring report: The principles of public administration, Serbia 2017, SIGMA

4 Regulatory Impact Analysis, the Manual, Branko Radulovic, Andrea Marusic, Djordje Vukotic

(Non) participation of the public in the policy-making process

When the public policy documents are adopted under the urgent procedure, involving the public in this process, in the attempt to “please” foreign actors and earn a positive assessment in the process of European integration, turns out to be yet another “unnecessary” difficulty.

One of the main obstacles for public involvement is the adoption of the laws under the urgent procedure, although this is not necessary.

From the beginning of 2018 until December 2019, 128 laws were adopted under this mechanism, whereas 222 laws were adopted under the regular procedure, which makes 57% of the total number of laws⁵

From the point of view of the civil sector, public debates are not organised frequently enough, and even when they are organised their content does not correspond with the requests of democratic participation yet serve to fulfil the form and create an illusion of compliance with the procedures. Several mechanisms are used to make public debate meaningless, such as failing to announce the invitation, yet inviting only specific selected civil society actors, and prescribing short deadlines for delivering the amendments proposals. It goes hand in hand with the widespread practice of registering new civil society organisations with names that vary a little from the names of existing recognisable actors and include members close to the government. The newly formed organisations give legitimacy to public debate procedures when necessary. Also, after the public debates, the reports are not being published, which turned out to be an established practice. It thus becomes impossible to ascertain what the grounds for (not) accepting some proposals were, which makes the public debate meaningless.

Additionally, the national authorities are obliged to involve the interested public in the process of drawing up public policy documents and regulations from the earliest stage of their preparation. When preparing the public policy documents, they are obliged to organise mandatory public debate⁶. Despite the positive legal amendments, the situation remains unchanged in practice. The public authorities and civil society fail to agree in understanding the purpose of adopting the policy documents. The first are guided by meeting the imposed requirements, while the latter take into consideration the citizens’ quality of life.

Who is “tailoring our fate”?

According to the Statistical Office of the Republic of Serbia official data, the public administration has fivehunderdninetyninethousandtwohundredfortyseven (599,247) employees⁷, which is almost every tenth citizen of Serbia. Ban on employment in public administration, under the arrangement with the IMF, remained in force from

5 According to Open Parliament Portal <http://otvoreniparlament.rs/statistika/zakoni-po-hitnom-postupku>

6 On the proposal of the Government of the Republic of Serbia, in 2nd quarter of 2018 the National Assembly adopted the Law on Planning System of RS, Law amending the Law on Public Administration and Law amending the Law on Local Self-Government which had established new and additionally improved mechanisms of civil participation, early consultation and mandatory organising of the public debate not only for the laws but also for public policy documents.

7 Data for 3rd quarter of 2019 <https://publikacije.stat.gov.rs/G2019/Pdf/G20191237.pdf>

the end of 2013 until the end of 2019. This mechanism was ignored by using fixed-term contracts or temporary service contracts.

According to the European Commission Progress Report for Serbia in 2019, the percentage of staff working under temporary contracts was 10% of the total number of servants, while the Statistical Office of the Republic of Serbia reported 4%⁸.

The practice of appointing acting highest-ranking civil servants continued⁹. About 60% of high ranking civil servants are in acting status, and many of them are in that status for longer than six months which had been provided for by the law. In addition to circumventing the competition procedure in this case and enabling the appointment of politically eligible staff in high ranking positions, this practice is detrimental from the long-term point of view of authority's functioning. Although Article 67a of the Law provides for that competition should be announced no later than 30 days from the day of appointing the acting public official, it is not implemented in practice because acting status gets extended for longer than the prescribed legal period or the acting official is re-appointed. Another Government attempt to improve the civil servants' system is the establishment of the National Academy of Public Administration in 2017. In January 2018, the acting director was appointed, which is a paradox, and that acting status has not changed to this day. Problems of depoliticisation and professionalization are as big as the public administration itself. It seems that no measures are implemented in the attempt to solve that, as the alternative methods are being used to keep the situation unchanged.

“Administration tailored for all of us”

As a service provider the public administration is famous for its “bad reputation” among the citizens for years now and as this topic is often a reason of public discontent, the public authorities made a lot of effort to change it in the last couple of years.

Regular Annual Report of the Protector of Citizens for 2018¹⁰ mentions “right to good administration” as an area in which the citizens had the most complaints.

A serious step towards the improvement in this area is the adoption of the Law on E-Government which entered into force in April 2018. Another essential novelty slowly gathering momentum is the establishment of National Open Data Portal by the end of 2017, where the public authorities upload the data they possess in the electronic form which enables further processing and the use of this data. To a great extent, it came as a result of the Serbian accession to the international initiative Open Government Partnership in 2012. The government also has portal e-government for providing services for citizens and businesses, with 760,000 registered users and 143 public authorities that are providing 710 different types of services. Also, there are several other online services for public authorities' services beneficiaries: Public Procurement Portal and E-taxes portal. However, bearing in mind that

8 Data for 3rd quarter of 2019 <https://publikacije.stat.gov.rs/G2019/Pdf/G20191287.pdf>

9 Pursuant to Article 67a of the Law on Civil Servants

10 https://www.ombudsman.org.rs/index.php?option=com_content&view=category&layout=blog&id=11&Itemid=13

only half of the Serbian population is digitally literate¹¹, there is a need to improve the services that citizens obtain in direct contact with public administration. Serbia still does not have the systemic measurement of public services quality, although the Ministry of Public Administration and Local Self-Government has initiated the drawing up of methodology for measuring the content of public service beneficiaries. The adoption of the new Law on General Administrative Procedure, which entered into force in June 2017, established the legal framework for the progress in this area, setting out the foundation for systemic improvement of administrative procedures in Serbia. In 2017, several ministries, under the coordination of the Ministry of Public Administration and Local Self-Government, launched “eZUP” project, which involved the linking of six biggest databases in Serbia – birth and death registries, Ministry of Interior databases, Tax Administration, Pension and Disability Insurance Fund, the National Employment Service and the Central Registry of Compulsory Social Insurance. In 2016, the Government of Serbia adopted Action plan for reducing the administrative procedures “Bureaucracy Stop”, to improve the administrative services provision, identify and propose measures to eliminate administrative burden in everyday citizens’ lives. By making the small steps towards the improved administration, the progress is visible, but the advertising “Administration tailored for all of us” is still sneered at by the angry citizens.

Financing local self-government – deserved or required

Local self-government units in Serbia vary significantly depending on the degree of development. The Fiscal Council Opinion says that poor financial management at the local level is one of the biggest problems of Serbian public finance so the Government should adopt precise measures to solve that¹². Many cities and municipalities have financially non-viable budgets, and the majority of local public enterprises and other establishments under the competence of the local level do not run successful business operations. Local self-government and its public enterprises’ failure to pay their liabilities is pushing the problems of local government towards the national economy, especially towards national public enterprises (in the end, covered by the state) thus slowing down the country’s economic growth. Potentially the most devastating effect of cities and municipalities financial disarray is worryingly poor services the citizens receive from the local level of government. The State Audit Institution (SAI) confirmed the irresponsible disposing of the budget resources by the local self-governments (none has received positive assessment on financial management from the state auditors). The SAI established that subsidies are given from the local authorities’ budget to some local enterprises, which then made bigger profits than the granted subsidies¹³. The manner of public funds disposal in local self-government units is not particularly transparent¹⁴. Although the Law on Public Enterprises even prescribes liability and fines for failure to publish data, many local PEs do not have their websites yet. Another mechanism of financial support from the budget of the Republic for the local self-government units is to transfer the funds from the budget reserve.

11 <http://novaekonomija.rs/vesti-iz-zemlje/mati%C4%87-u-srbiji-80-odsto-gra%C4%91ana-koristi-internet-a-49-odsto-je-digitalno-nepismeno>

12 Public local finances: issues, risks and recommendations, Fiscal Council, 27 June 2017

13 <http://www.rts.rs/page/stories/sr/story/13/ekonomija/3416492/dri-neke-lokalne-samouprave-nenamenski-trosile-subvencije.html>

14 <https://www.swisspro.org.rs/uploads/files/101-969-analiza-idu-60-jls-izvod-srpski.pdf>

According to the Transparency Serbia survey, when it comes to budget reserve use in the period 2014- 2017¹⁵ , total annual transfer from the funds of the budget reserve, depending on the size of local self-government and its budget, made up 2-18% of the total municipal budget.

To receive additional funds, the majority of municipalities state current expenses, such as heating, facilities reconstruction and other. Still, it remains obscure why this funds were not planned ahead in local self-government budgets but were received from the budget reserve of the Republic. All stakeholders have reached a consensus that the reform of local self-government system is necessary, especially in the area of financial liability. However, the reform implementation is being postponed due to the complexity and the scope of activity to be undertaken as well as the price of the reform process. In the meantime, the citizens have to bear the costs of this inefficiency both financially and through their quality of life.