

Vladimir Mihajlović, Researcher, and Milena Lazarević, Programme Director

(UN)SUCCESS OF PUBLIC ADMINISTRATION REFORM IN SERBIA

Case: European Commission v. Reality

“Good progress” written in bold letters at the beginning of the section on public administration reform gives an impression to a reader that things are going according to the plan. This feeling persists even when switching to the smaller font that states numerous problems and areas with no progress.

This year, as was the case in the previous years, the expert and political public were anticipating the European Commission (EC) annual report on the Serbia's EU accession process. Each year, the EC adopts a set of [documents](#) composed primarily of the candidate country reports, which include the state of play analysis, reports on conducted reforms, achieved progress in their path to EU membership and recommendations for priority areas that need further reform, as well as measures that ought to be taken. A recent issue of CEP [insight](#) provides an in-depth analysis of the Serbia 2016 Report. In this document, we analyse the [EC's](#) assessment of Serbia in the field of public administration reform (PAR), one of the pillars of the Enlargement Strategy alongside the rule of law and economic governance.

What lies behind the general impression?

Serbia, at the first sight, received positive assessment in the field of PAR. An encouraging fact is that PAR, along with economic reform, regional cooperation and normalisation of relations with Kosovo, has been labelled as the area with achieved progress. Good progress has been achieved with the adoption of the Public Financial Management Reform Programme, the e-Government Strategy, the Strategy on Regulatory Reform and Public Policy Management and of new laws on general administrative procedure, wage system and local and provincial civil servants. However, a more detailed reading of the report reveals certain deficiencies, especially regarding the depoliticisation and professionalisation of public administration, merit-based recruitment system, public policy making, implementation, monitoring and evaluation, capacities for inclusive, transparent and evidence-based policy and legisla-

tive development, system of accountability in public administration, capacities of independent bodies and other control mechanisms.

An in-depth analysis of the state of play and the EC's assessment in the field of public administration was conducted in line with the [Principles](#) of Public Administration developed by OECD/SIGMA in close cooperation with the EC. Bearing in mind that there is no *acquis communautaire* in the field of public administration, the aforementioned principles provide important standards and a measurable framework of public administration as well as the possibility of comparing candidate countries.

Strategic framework without high-level support?

A strategic direction of PAR in Serbia is set by the PAR Strategy and its Action Plan for the period 2015-2017. The Serbian Government and the Ministry of Public Administration and Local Self-Government (MPALSG) have been working on meeting the set goals and some results have been achieved.¹ However, as stated in the Report, certain delays are evident in the implementation of activities foreseen in the strategic documents. Above all, the reasons lie in the insufficient resources in the responsible ministry but also in the lack of a complete and unconditional political support. Regarding the lack of capacities, apart from improving human resource management (HRM) system, which has been neglected, one of the means of overcoming this problem is involving the expert public in the reform process. On the other hand, the lack of political support is not highlighted in the Report. Moreover, it is said that political support for PAR is ensured through regular meetings of the PAR Council, chaired by the Prime Minister. However, during 2016, until the end of November, the Council did not meet at all. Furthermore, although the Council is for-

The lack of political support is not highlighted in the Report. Moreover, it is said that support for PAR is ensured.

mally chaired by the Prime Minister, in reality, it is chaired by the Minister of Public Administration and Local Self-Government. This challenges the existence of high-level political support for the reforms, which is assumed by the EC.

1. A report on conducted activities from the Action Plan for the implementation of the PAR Strategy is available at the following link: <http://bit.ly/2ih5Caw>.

Policy development and coordination: between the form and practice

Policy development and coordination is assessed as relatively successful. However, a series of open and unfinished issues remains. This area should be observed on several levels. The legal and institutional framework are in place. The adoption of the [Strategy](#) for Regulatory Reform and Public Policy Management represent an important step. Development of an efficient and effective evidence-based system of legislation and public policy management is set as an overall goal. However, as mentioned in the Report, policy coordination continues to focus more on formal, procedural issues than on substance. Discrepancies between formal, procedural issues and the substance are noticed in all phases of the policy cycle. Therefore, the EC states that even though regulatory impact assessments (RIA) are usually carried out, their quality varies from case to case. RIA is usually perceived by civil servants as an unnecessary additional obligation and therefore they pay little attention to RIA preparation. Therefore, alongside the obligation to prepare the RIA, it is important to ensure its quality. Although the National Public Policy Secretariat, institution

Alongside the obligation to prepare the regulatory impact assessment, it is very important to ensure its quality.

in charge of monitoring the quality of RIA, has organised numerous trainings for civil servants, additional mechanisms need to be developed. Similar situation in terms of relation between the form and substance is present with regards to monitoring and control of the Government. "Although the Government Annual Work Plan sets goals and planned activities, these are often left unattained in practice, while there is no mechanism to measure the results or impacts of activities conducted."² Despite annual reports, the lack of clean and measurable data on the results and the correlation between planned and implemented policies disables the evidence-based evaluation. Furthermore, analysis of the legislative process shows that public debates and consultations are lacking. Public and inter-ministerial consultations are often conducted *pro forma*, at a too late stage of the process, usually having no influence on decision-makers. These examples have been highlighted in the Report, to show the fulfilment of the form, but not the substance.

Public service and human resource management: a decade of successful reform simulation

In the previous period, Serbia has failed to conduct a real reform of the civil service system. Therefore, it is not surprising that almost every aspect of HRM is criticised in the Report, starting from the recruitment, through promotion to

dismissal procedures. Depoliticisation and professionalisation of administration has been lacking, while the merit-based system is still only a proclaimed goal. In the field of staff recruitment, the biggest remark of the EC is related to the excessive discretion allowed for the political level in selecting the candidates, the lack of clear job criteria, and the composition of selection committees. Also, exemptions from the normal recruitment procedures are allowed for temporary staff, which makes up for around 10% of the civil service. The percentage would probably be even higher if there were no limits set by the law. Temporary employees are not being selected in line with the normal recruitment procedures but on the basis of managerial discretions. Moreover, even in the situations when an internal or public competition is envisaged by the law, the recruitment of civil servants is not based on merit and equal treatment. An in-depth analysis shows that the recruitment and selection processes are not merit-based and that external candidates are demotivated to participate in the process.³

Moreover, the Report stresses out that the political influence plays a key role in filling senior management posts, and more than 60% of senior civil servants are not appointed in line with legal provisions. It is also important to highlight the practice of extending the acting status of the senior civil servants on managerial positions that were appointed temporarily until the opening of new internal or public competitions. The fact that in the past 10 years Serbia has been facing difficulties regarding the recruitment of senior civil servants based on merit, indicates deeper cultural issues that neither SIGMA nor EC currently deal with. The Reports traditionally commend the new laws and solutions that are aligned with the European "standards",

More than 60% of senior civil servants are not appointed in line with legal provisions and a majority of them stays on the acting positions without a proper competition being conducted.

without any analysis of their accordance with local administrative and political culture. The lack of implementation usually causes a (mild) criticism by the EC, but without a serious analysis of the reasons that lie behind. The EU's requests in terms of the recruitment of senior servants do not have a foundation in practice in the EU member states. In fact, many member states have partially or completely politicised senior managerial positions. Therefore, it should be analysed whether the persistence on raising the bar for the candidate countries above the standards for the EU member states actually supports development of a seriously dangerous practice of ignoring both the regulations and the culture of simulating reforms.

2. For more information on M&E see: Getting results in Public Policy: Monitoring and Evaluation with Evidence Supplied by the Civil Society. Available at: <http://bit.ly/1ECRYmV>

3. For more information on Serbian civil service system see: Between Discretion and Professionalism- Merit-based Recruitment Policy in the Context of Serbia's Accession Negotiations with the EU. Available at: <http://bit.ly/2idUjNR>

It should be analysed whether the persistence on raising the bar for the candidate countries above the standards for the EU member states actually supports the development of a seriously dangerous practice of ignoring both the regulations and the culture of simulating reforms.

No progress has been made either in other aspects of the HRM system. The performance appraisal system remains inefficient, with inflated appraisal grades. The MPALSG and Government HRM Service lack capacity to coordinate and harmonize the work of HRM units in the bodies, while the professional development of civil servants and training programmes are insufficiently developed. EC points out that no progress has been made with the implementation of the National Strategy for Professional Development or the planned establishment of a national training institute for public servants. Therefore, its establishment should be priority in the next period.

On the other hand, the progress is made on the regional and local level, with the adoption of a new Law on Employees in Provincial and Local Government Bodies. The law extends the existing state civil service framework and introduces a merit-based HRM system. It remains to be implemented with the goal of establishing an aligned merit-based public service system. Moreover, an important step was made towards the creation of a remuneration system in public sector based on the principle of equal pay for equal work (Law on Wage System). Even though EC assessed positively the wage system reform, Serbia still does not have a fair wage system because the goal will be reached with the adoption of special laws and bylaws.

Accountability: optimisation without reorganisation

Accountability is an especially important principle of public administration, which is often neglected in Serbia. Citizens' right to good governance is protected through internal and external oversight mechanisms. However, a discrepancy between formal regulations and practice is notable. Moreover, lines of accountability between agencies and parent institutions are blurred, and personal accountability is usually non-existent. As the EC warns, the political commitment to improve managerial accountability and ensure more systematic delegation of responsibilities within institutions has not yet delivered results. That has also been confirmed in the preliminary results of the research on managerial accountability in public administration that is being conducted by the CEP. The research includes the analysis of the legal framework as well as the field research. It reveals that delegated authorities and sense of responsibility are often in collision. Regarding the optimisation of public administration, some progress has been achieved in the process of rightsizing. However, despite the positive trend of downsizing the administration, the problem persists in the structure of employees. The increase of outflow

of the most qualified staff, especially from the departments in charge of coordination of EU integration issues and IPA projects, endangers the sustainability of reform processes as well as the future absorption of pre-accession assistance.

Regarding the external control of the administration, besides the solid legal framework which should be further improved towards harmonisation with the European standards, it is imperative to strengthen the capacities of independent bodies, e.g. Ombudsman. It is especially important to work on the development of the mechanism of their influence and improve communication with the Government. When it comes to accountability and transparency, it is necessary to work on the data opening. Open data progress is still limited both in terms of datasets and the number of government institutions which release their data.⁴ Also, EC pointed out that progress has been made as regards the right to administrative justice with the adoption of a new Law on General Administrative Procedure (GAP), whose implementation will start in mid-2017. However, a continuing backlog of administrative disputes to be resolved by the court system undermines public confidence.

Service delivery: area of the biggest progress

Creating a more user-oriented administration is a key government priority. The EC states in the Report that some progress has been made with the adoption of an [e-Government Strategy](#) and its Action Plan, and provision of a certain number of integrated e-services to citizens and businesses through one-stop-shops. An important step towards simplifying administrative procedures was taken with the adoption of the Law on GAP. However, Serbia will still need to deal with special administrative procedures that are regulated by different pieces of legislation, which hinder transparency

and legal certainty. Furthermore, it is stated that citizens satisfaction with the service delivery is still not regularly measured. The initiative "Stop bureaucracy" is being implemented at the centre of Government with the goal of identifying and simplifying procedures, by connecting them and making

them in accordance with life events and the needs of the citizens instead of the needs of the administration. Consequently, new parents now have an option to provide data of their new-born for the purposes of the Register of births while still in the hospital, providing that they have decided the name.

The biggest progress was accomplished in the area of service delivery and the focus on the citizens' needs is evident. New Law on Administrative Procedure puts citizens in the centre, but full implementation is yet to come.

4. For more information on open data see: Demanding open data in Serbia. Available at: <http://bit.ly/2fyjJGg>

Public financial management: getting in order

Public financial management (PFM) was assessed very positively in the Report. Serbia made progress with the adoption of a comprehensive PFM Reform Programme. The Programme defines a set of short and long term goals, among which the EC particularly stresses the need to align medium-term budgetary framework and annual budget processes with strategic planning, to enhance programme budgeting, to enhance tax collection and voluntary compliance, to improve debt management, and to strengthen public investment and capital project planning. The EC also praised certain measures with the goal of increasing the budget transparency. However, some of the important issues remain to be improved. The main remarks are related to the quality of budget proposal, the year-end report on budget, oversight by the National Assembly as well as low public participation in the budget process. Furthermore, the internal financial control in the public sector remains a problem. The impact of the internal audit is still limited and the Central Harmonisation Unit (CHU) within the Ministry of Finance has not been proactive in providing methodological guidance to public sector organisations on implementation of Public Internal Financial Control (PIFC). That indicates the weak capacities of the CHU as well as the lack of an adequate support to its development.

What next?

Serbia has undoubtedly made certain steps in order to create an efficient and economical administration, but numerous aims remain to be achieved on the way to the final goal. It is possible that, while the public, donors and international partners scrutinise some issues in this complex field, as it was the case with optimisation and the wage system reform in the previous period – other segments could be backsliding, as it happened with the HRM system or the government accountability. Among the key activities for the upcoming period, the EC recommends the following: to align the National Plan for the Adoption of Acquis (NPAA) with the medium-term budget plan; to improve RIA and public consultations; to

amend the civil service law through an inclusive and evidence-based process; and to ensure systematic coordination and monitoring and regularly report on the implementation of the PFM Reform Programme.

PAR is a continuous process, which must not be stopped even for short. Therefore, it is important that Government, instead of focusing on the commendation received from the EC, focuses on the issues that had been neglected in the previous period, and to ensure that all stakeholders participate actively and well-coordinated in the reform processes. The MPALSG is expected to continue to conduct all planned activities, searching for partners both within and out of the administration. It is imperative to ensure the highest-level political support, so that the MPALSG has true partners in other parts of public administration, in addition to the expert public, civil sector and international community. In order to increase transparency and inclusiveness of the processes, it is very important that MPALSG continues regular monitoring and reporting on the achieved results. A precondition is to strengthen the MPALSG's internal capacity, to invest in employees and processes for monitoring and reporting (it is fascinating that a Ministry with such responsibilities has less than 90 employees). On the other hand, the EC needs to, apart from providing support to the reform process, use a sharper tone in its reports whenever it is necessary.

The EC needs to, apart from providing support to the reform, use a sharper tone in its reports whenever it is necessary.

This is an imperative, considering that PAR has been recognized by the EC as a crucial pillar of the EU accession process, whose results have a significant impact on all other reform areas. Despite the recognised importance of PAR, a mild tone of the EC and the commendation that is not always evidence-based lead to a more relaxed approach of the in charge institutions, contrary to staying focused and devoted to the reforms.

About the European Policy Centre

www.europeanpolicy.org

-  EuropeanPolicyCentre
-  @CEPBelgrade
-  European Policy Centre
-  EuropeanPolicyCentre

European Policy Centre - CEP - is a non-governmental, non-profit, independent think-tank, based in Belgrade. It was founded by a group of professionals in the areas of EU law, EU affairs, economics and public administration reform, with a shared vision of changing the policy making environment in Serbia for the better – by rendering it more evidence based, more open and inclusive and more substantially EU accession driven. Profound understanding of EU policies and the accession process, the workings of the Serbian administration, as well as strong social capital combine to create a think-tank capable of not only producing high quality research products but also penetrating the decision-making arena to create tangible impact. Today, CEP organises its work into four programme areas: 1) Good Governance, with a strong focus on horizontal policymaking and coordination; 2) Internal Market and Competitiveness; 3) Regional Policy, Networks and Energy; 4) Europe&us. For more information, visit us on www.europeanpolicy.org.