

AGENCIFICATION OF PUBLIC ADMINISTRATION IN THE TRANSITION PROCESS

ABSTRACT: The democratization of the countries in Central and Eastern Europe (CEE) has also included the reform of inefficient public administration. At the same time, these reforms have been accompanied by the aspiration for a membership in the European Union. The administration has been transformed according to a number of principles that make up the framework of the European administrative area. Along with these processes, there were established public agencies, a body taken over from the developed countries, and created during the reform of the New Public Management. The countries in transition have gone through an extensive and rapid process of agency. Due to a high level of autonomy after the formation of agencies, i.e., after certain tasks have been transferred to their competence, it is difficult to effectively control their work. The public interest is threatened by the non –transparency of these bodies. Their existence also affects the basic principles of the European administrative space and turns the reform against itself. It is certain that the mass establishment of a new body in the system of public administration brings uncertainty in terms of effects. It has turned out that foreign experts, without knowledge of the administrative tradition of the socialist countries, as well as domestic politicians who wanted accelerated reform, also contributed to that.

Keywords: *The European administrative space, public agencies, the European Union, reforms, transition.*

* A doctoral candidate at the Faculty of Political Sciences, The University of Belgrade, The Centre for European Policies, Belgrade, Serbia, e-mail: milica95.skoric@gmail.com

1. Introduction

The democratization of Central and Eastern Europe (CEE) at the end of the 20th and the beginning of the 21st century implied a process of transition to functional institutions. It was necessary to carry out reforms over the civil service tailored to the principles of Marxism and Leninism (Verheijen & Rabrenović, 2001), such as: state administration subordinated to political structures, harmonization of employment conditions for all workers, creation of a parallel bureaucracy. However, the implementation of changes was not efficient enough and they were often abandoned before they were completed (Šević & Rabrenović, 1998). We link these changes in governance directly to the processes that changed public administration in developed countries in the second half of the 20th century.

Prior to 1979, public administration was characterized by a bureaucratic type of organization, however, the changed needs of society required new institutional arrangements. The answer is found in new principles – professionalism, depolitization and expertise. Today, we call the changes that started from UK in the form of rethinking the work of the government and the entire administration the New Public Management (NPM). The goal of these reforms, in the first place, was to reduce the role of the state in the economic sphere, but also to redefine the then concept of public administration (Trbović, Đukanović & Knežević, 2010). Developed countries have increased the quality of services and efficiency of work through NPM, and in the wake of that, modern management systems are characterized by the aspiration to achieve an organized and efficient society (Ibid).

A decade later, in Central and Eastern Europe, countries are moving towards the same goal – reforming cumbersome and inefficient public administration. At the same time, these reforms are accompanied by the aspiration to join the European Union (EU). In the light of the new changes, EU created a series of principles of public administration that form framework of the European administrative space and thus has a significant impact on the development of governance in countries aspiring to membership in the Union. The most important mechanism through which the EU provides assistance in the process of transition and institution building is SIGMA (Support for Improvement in Governance and Management in Central and Eastern European Countries). This initiative established the very concept of the European administrative space and the principles on the fulfillment of which the accession of states to the EU depends. In this way, new institutional forms have been added to the public administration inherited from the

decades-long communist government through the process of transition and Europeanization, such as the public agendas that are the subject of this paper.

Eriksen and Solumoen (2005) recognize the establishment of agencies outside ministries as the most important organizational innovation from that period. This process of delegating authority to bodies outside the organizational structure of ministries and their rapid and often excessive establishment is called *agencification*. The term *agency* is taken from the English language, describing the emergence of a large number of agencies to which the competencies of ministries have been transferred for the sake of efficiency. Agencies belong to the group of regulatory and control bodies entrusted with tasks previously performed by the traditional state administration. In formal sense, they are autonomous and independent bodies whose work must not be influenced by external factors.

However, the context in which agencies were created in Central and Eastern Europe differs from the political and economic context that led to *agencification* in Western Europe and elsewhere where the managerial approach developed in response to the entrenched Weberian type of governance (Musa, 2014, p. 169). Countries in transition have implemented agencies in parallel with democratization processes, establishment of free market, and other administrative reforms.

2. Agencification within transition

New institutional forms were introduced at different speeds, and the application of New Public Management standards varied from state to state.

An additional impetus for change at the end of the 20th century was the determination of the former socialist republics towards membership in the European Union. The EU has sought to speed up the transition process by providing assistance, including in the area of public administration reform inherited from the socialist regime. Although the presence of external experts, whether economic or political, is generally considered to facilitate transition processes, the impact of these actors on governance reorganization varies considerably (Eriksen & Solumsmoen, 2005).

Whether the state is able to profit from foreign aid depends on both domestic and foreign actors. Insufficient expertise has been identified as a major obstacle to reforms in the former socialist republics (Ibid). Those countries had difficulty identifying problems and identifying their own needs. International experts have had difficulties with coordination and lack of interest, and an aggravating circumstance for the expected reforms is that they are often not

sufficiently familiar with domestic norms and characteristics of society and the system. The deep-rooted influence of the former structures was also reflected in the way of thinking of many residents and made the reform process more difficult.

Reforms in different countries have led to different results, different levels of transformation, mainly due to different reform concepts, different administrative traditions, and implementation mechanisms. The role of administrative tradition has proved important in the countries of Central and Eastern Europe, where during the transition, with the help of international organizations and the EU, a special type of *one-size-fits-all* reforms was initiated, which produced similar negative consequences. In that sense, the introduction of managerial values in the political and administrative system, which lacks fundamental democratic principles of legality, rule of law, responsibility, transparency, and openness, manifested itself as counterproductive (Milenković, 2013, pp. 137–138).

Ignoring restrictions and taking ready-made solutions from the administrations of developed countries has led to limited effects of reform and insufficiently implemented solutions, such as public agencies, whose analysis is the subject of this paper. Given that there was no clear strategic approach and vision of public administration when establishing agencies, they were created as needed. In relation to the countries where the agencies were established, in CEE, legal and procedural control took precedence over the control of results and performance, which are at the core of the agency model, which led to weak control mechanisms, lack of autonomy and low transparency.

The reason for rashly establishment of agencies can be found in external and internal pressures to end the transition process as soon as possible. Such reforms have led to a situation where new institutional forms existed, but often without the most important values of transformation, unclear priorities and without a transparency. The introduction of the agency model in countries in transition, as a completely new type of organization, has not always been accompanied by the adoption of management techniques, the establishment of control mechanisms and the provision of adequate autonomy. This paper will show that administrative reforms and the creation of agencies primarily were part of the institutional adjustment to the European Union on the path to membership, as the EU has emerged as a central authority in the countries of CEE in terms of public administration reform.

3. The role of the European Union

During the preparations for EU membership, countries build capacity through preparation, coordination and management of accession process and implementation of the *acquis communautaire* (Todorović, 2012). As there is no scientific model of administration and no standard for public administration, this gap was filled by the European administrative space, which was created as a result of the enlargement of the European Union. During accession, candidate countries are required to meet minimum standards regarding administrative reform, these standards are known as SIGMA principles. Although these principles are not formally binding, they represent standards that need to be met in order to strengthen the institutional capacity of Member States and candidates (Ibid). Precisely these principles represent the basis of the “European administrative space” and their application achieves the reliability of the state administration system (Todorović, 2009). The goal is to reach the level of reliability of the “European administrative space” through the implementation of the elements of the SIGMA principles.

Prior to the fifth enlargement of the EU, better known as the “big enlargement”, public administration issues did not attract attention. Nevertheless, when countries of Central and Eastern Europe have begun the process of joining the European Union, the issue of the existence of administrative capacity has become one of the most important for the process of European integration. At the summit in Madrid in 1995, it was first mentioned that candidate countries should adjust their administrative structures in order to implement the obligations arising from membership (Todorović, 2009).

Numerous studies have identified domestic administration and administrative tradition as key to adapting to EU rules. The key challenge that post-communist states had to deal with is the inherited “real-socialist” state administration (Todorović, 2011, p. 203). Reforming the old administration was not an aim for itself, there was a need to create capacity to effectively implement EU commitments. For that reason, the application of the SIGMA principle enabled the reliability of the state administration. Therefore, candidate and potential candidate countries should organize their administrations so that they reach the level of reliability of the European administrative space (Ibid, p. 205).

Jacques Funius (2006), in SIGMA documents, links legally constituted states to clearly defined laws that form ministries, state bodies and agencies. This means that each administrative body must undergo examination and supervision by other institutions or bodies. A very important issue in this context is the size of the civil service management units, where we come to the popular agency.

Agencies are understood as a solution for strengthening the weakened administration, increasing the salaries, reducing state regulation, but also as an institutional model imposed by the EU. The establishment or restructuring of agencies is a formal obligation of the candidate countries for membership and fulfillment of the conditions for EU accession, which indicates the action of the model of external incentives in the institutionalization of the agency model. In addition, Europeanization takes place through conditionality, because the closing of negotiation chapters depends on the fulfillment of obligations (Staničić, 2016, p. 70). In order to ensure implementation, membership negotiations include in some cases the obligation to form an agency model of the organization, thus anticipating efficiency, expertise, a minimum level of politicization, and connectivity with sister European agencies (Musa, 2014, p. 173).

The result of the reforms is superficial and peripheral because it is mostly about fulfilling the formal conditions of accession to the European Union, and not about significant transformations of collective values. Such institutional changes induced by the EU in transition countries are described as ‘shallow Europeanization’ (Goetz, 2005; Schimmelfennig and Sedelemeier, 2005, 2006; Grabbe, 2003 according to Musa, 2014, p. 173) or ‘Eastern Europeanization’ (Héritier, 2005 according to Musa, 2014, p. 173), which due to its superficiality has a higher potential for reversibility (Goetz, 2005 according to Musa, 2014, p. 173). The EU is the generator of the agency process because its institutional architecture and the character of the regulatory state encourage the creation of European agencies, as well as their counterparts in the member states. The formation of a network of European and national agencies in the same area ensures the effective implementation of European policy (Musa, 2014, p. 173).

The global trend of agencification, necessarily cause the transformation of classical state administration. The formation of agencies in different institutional forms has led to different definitions of agencies, their forms and internal design, as well as different relations of the agencies with politicians, public administration, users, and the market.

4. Control and autonomy

After formation of agencies, i.e., after certain tasks pass into their competence, it is difficult to effectively control the work of agencies. In these circumstances, agencies exercise their discretion and employ a large number of people to whom they pay high salaries, while at the same time not submitting accurate (or even no) reports on the results of their work.

Public agencies are controlled by the ministries in whose jurisdiction are affairs public agency is in charged for. The question arises as to how to strike a balance between control of labor and the autonomy they enjoy? Depending on whether these are agencies established to perform professional, development or regulatory work, differs form of work control.

Supervision over the work of the public agency in the entrusted affairs is performed by the ministry in whose scope the affairs of the public agency are. Vertical responsibility implies the control of agencies by institutions that are hierarchically superior to them. In order to successfully implement horizontal accountability, citizens, media and other stakeholders must have specific data on their work.

As a rule, the countries of Central and Eastern Europe opt for “semi-autonomous agencies” to perform executive tasks. Semi-autonomous bodies are organizations within the government and state administration that oblige public affairs at the central level, do not have the status of a legal entity, but have a certain level of autonomy in management. In the former socialist states, there are, among others, “autonomous” agencies, which have the status of a legal entity and autonomy in management. These agencies were more popular in countries in transition than semi-autonomous organizations until the first decades of the 21st century, but since then the number of semi-autonomous organizations has increased (USAID, 2018).

Detailed and constant control of public agencies is necessary for several reasons. Transparency is the value of democratic societies, and it gives rise to responsibility. It is very important that citizens are familiar with the work of agencies and have opportunity to hold them accountable. Another reason is certainly to ensure that agencies implement government policies and act in accordance with their competencies. That is why it is important that agencies regularly report on their work to both Government and public.

According to the doctrine of public management, public sector organizations will be of better quality and more efficient if managers are given a high level of autonomy in management and operational decisions (Ahlbäck Öberg & Wockelberg, 2020). Therefore, the autonomy of the agency is conditional - freedom comes with taking responsibility for achieving results (Ibid).

Today, the governments of Central and Eastern European countries are more likely to opt for agencies with a lower degree of autonomy, and these executive agencies are kept much closer to the central government than before. This can be partly explained by the advent of the second generation of reforms known as “deagencification” or “consolidation of power”. States are implementing this reform to regain some of the control and coordination they have lost due to the excessive creation of special agencies. This trend has not

been recognized so far in most of CEE countries, but it could serve as a model for future agency reforms (USAID, 2018, p. 3).

5. Transparency

De jure transparency is a legally prescribed obligation for the agency to make certain content available to the public. If we take into account that agencies can publish more data than is legally required, *de-jure* transparency is a narrower concept of transparency than *de-facto* transparency.

Countries in transition have gone through an extensive and rapid process of agencification. The legal framework of the European Union is one of the main reasons for the establishment of independent agencies (as a condition in the accession process). These reforms took place in conditions of control of economic and social resources by political parties, politicization, and centralization. The public perception of the work of these bodies is mostly negative. Agencies are often portrayed as institutions that have no purpose other than to exploit the interests of political elites instead of advancing the interests of citizens. The reason for such public attitudes can be found in the fact that very little is known about the work of public agencies, one of the reasons for this is the lack of public debate and low level of visibility of these agencies (Tomić et al., 2015, p. 20). The media usually follow the work of agencies only when it is negative and target of criticism from politicians and the professional public, or when a public agency becomes the center of a scandal.

Insufficient resources can be one of the reasons for the lack of transparency. However, transparency is not necessarily associated with higher monetary expenditures, e.g. Maintaining a website does not require a lot of resources, but a commitment and consistency that would allow interested actors to access information about agency work easily and quickly. One of the ways to increase trust is by sending newsletters by e-mail, providing information on activities, publishing budgets, work reports, external audit reports, printing materials on the work of the agency, etc. The closest forms of providing information on the work of the agency to democracy are holding debates, round tables, and public debates on issues within the scope of work of the public agency.

6. Conclusion

When socialist states began to transform the entire system, Western countries invested many resources to accelerate these processes. Unfortunately, in some cases this was not effective. Insufficient knowledge of domestic public

administration and legal tradition has led foreign experts to implement ready-made solutions in stumbled countries. What has proven to be a bad practice over the years – some of the PAR elements have not fully fulfilled their purpose. Thus, public agencies are bodies that are characterized by non-transparency and insufficient control, they are unknown and irresponsible to citizens.

During their building into democratic societies, these countries also started the process of joining the EU. Thus, the transition process becomes a process aimed at joining the EU. The dilemma remains whether the reforms were aimed at improving the quality of service delivery, transparency, effectiveness, etc. or EU membership? Although one does not necessarily exclude the other, the formal fulfillment of the requirements for joining the EU is not expedient, because it does not essentially contribute to improving the quality of the elements of public administration.

Another problem is that in countries in transition, reform was encouraged from the top, that is, the political structures tried to “catch up with the West” after the regime change. Unlike this transitional public administration reform, in the countries where the new public administration has developed, the demand for public sector reforms came from people employed in public administration, i.e., of those who know best its shortcomings, limitations, and weaknesses.

Process of deagencification is not necessary, it is more important to increase matter of responsibility and involve the population in the review of the model of autonomy and control. If we bring public agencies closer to the citizens, make them transparent and accessible, we will reduce distrust in these bodies and potentially contribute to a greater degree of branching out of the competencies of ministries. This is a practice that should not be avoided, but should be actively and timely implemented, taking special care of control and the public good.

Škorić Milica

Doktorantkinja na Fakultetu političkih nauka, Univerzitet u Beogradu, Centar za evropske politike, Beograd, Srbija

AGENCIFIKACIJA JAVNE UPRAVE U PROCESU TRANZICIJE

REZIME: Demokratizacija država u centralnoj i istočnoj Evropi sa sobom je donela i reformu neefikasne javne uprave. Ove reforme istovremeno su praćene težnjom ka članstvu u Evropskoj uniji. Uprava se transformisala

prema nizu principa koji čine okvire Evropskog upravnog/administrativnog prostora. Ovi procesi praćeni su stvaranjem javnih agencija, tela preuzetog iz razvijenih država, nastalog tokom reforme nove javne uprave. Zemlje u tranziciji su prošle opsežan i brz proces agencifikacije. Zbog velikog stepena autonomije nakon formiranja agencija, odnosno nakon što u njihovu nadležnost pređu određeni zadaci, teško je efikasno kontrolisati njihov rad. Javni interes ugrožen je netransparentnošću ovih tela što ugrožava osnovne principe Evropskog upravnog prostora i reformu okreće samu protiv sebe. Izvesno je da masovno osnivanje novog tela u okviru sistema javnog upravljanja unosi neizvesnost u pogledu efekata. Pokazalo se da su tome doprineli i strani eksperti, bez znanja o upravnoj tradiciji socijalističkih zemalja, kao i domaći političari koji su želeli ubrzanu reformu.

Ključne reči: evropski upravni prostor, javne agencije, Evropska unija, reforme, tranzicija.

References

- 1 Ahlbäck, O., & Wockelberg, S. (2020). Agency control or autonomy? Government steering of Swedish government agencies 2003–2017. *International Public Management Journal*, 23 pp. 1–20, Downloaded 2020, August 17, from <https://doi.org/10.1080/10967494.2020.1799889>
- 2 Eriksen, S., & Solumsmoen, D. (2005). *Unfinished transition: Serbian public administration reform 2001-2004*. Belgrade: Cicero
- 3 Funius, J. (2006). Vladavina i evropske integracije: pouzdana državna uprava [Rule and European integration - reliable state administration]. In: Mihajlović M. (ed.), *SIGMA radovi 23, 26, 27, 31, 35* [*SIGMA papers 2, 26, 27, 31, 35*] (pp. 111-127). Beograd: European movement in Serbia
- 4 Milenković, D. (2013). *Javna uprava: odabrane teme* [Public administration: selected topics]. Beograd: Čigoja
- 5 Musa, A. (2014). Europeizacija i novi upravni modeli: agencije u Hrvatskoj [Europeanization and new administrative models: agencies in Croatia] In: Koprić, I. (ed.), *Europeizacija hrvatske javne uprave* [Europeanization of Croatian public administration] (pp. 163–211). Zagreb: Zelina
- 6 Šević, Ž., & Rabrenović, A. (1998). Depolitization o the public administration: towards the civil service In: Jaber, J. (ed.), *Public administration and social policies in central and eastern Europe* (pp. 351–370). Bratislava: NISPA

- 7 Staničić, F. (2016). Kontrola rada regulatornih agencija u Republici Hrvatskoj [Control of the work of regulatory agencies in the Republic of Croatia]. Musa, A. (ured.), *Forum za javnu upravu: Javne agencije: u potrazi za reformom* [*The Forum for a public administration: Public agencies searching for a reform*] (pp. 63–73). Zagreb: Institut za javnu upravu
- 8 Todorović Lazić, J. (2012). Reforme državne uprave u Srbiji i proces Evropskih integracija [Public administration reforms in Serbia and the process of European integration]. *Politička revija*, (3), pp. 193–206
- 9 Todorović, J. (2009). Jačanje administrativnih kapaciteta kao uslov članstva u Evropskoj uniji [Strengthening administrative capacity as a condition for membership in the European Union]. *Politička revija*, (2), pp. 259–274
- 10 Todorović, J. (2011). Uticaj evropeizacije i politike uslovljavanja na jačanje administrativnih kapaciteta [The impact of Europeanization and conditionality policy on strengthening administrative capacity]. *Srpska politička misao*, (4), pp. 197–213
- 11 Tomić, S., et al. (2015). *Transparentnost i odgovornost agencija: Komparativna analiza pet regulisanih sektora u Srbiji i Makedoniji* [*Transparency and accountability of agencies: A comparative analysis of five regulated sectors in Serbia and Macedonia*]. Beograd: LaMartin
- 12 Trbović, A., Đukanović, D., & Knežević, B. (2010). *Javna uprava i evropske integracije Srbije* [*Public administration and european integration of Serbia*]. Beograd: FEFA
- 13 USAID (2018). *Nacrt studije sa preporukama za uređenje sistema državnih agencija u Republici Srbiji* [*Draft study with recommendations for regulating the system of state agencies in the Republic of Serbia*], Downloaded 2021, August 02, from <http://saradnja.rs/bep/documents/news/REZIME%20Studije%20%20-%20Uredjenje%20sistema%20drzavnih%20agencija%20u%20Republici%20Srbiji.pdf>
- 14 Verheijen, T., & Rabrenović, A. (2001). The evolution of Politico–Administrative relations in Post–communist states: Main Directions In: Verheijen T. (ed.), *Politico-administrative relations: Who rules?* (pp. 410–426). Bratislava: NISPA