Chapter 1: Introduction

One of the key processes in the transition from a communist, authoritarian regime to a functioning free-market democracy is the reform of the entire government machinery, a comprehensive process of institutional re-design. In Europe, these reforms have usually been evolving simultaneously with the international, and above all, European (re)integration of these former communist states. The connection between the public administration reform (PAR) and European integration (EI) has been frequently stressed in the context of the last enlargement of the European Union. Although this link is rather indirect, given that there is no acquis communautaire in the area of public administration (PA), its significance has been often emphasised, as the “soft acquis” in the area of administrative capacities has developed.

There are several dangers resulting from the PAR and EI running on detached tracks and accordingly several positive outcomes of interrelating them. Firstly, as the objective of EU accession “changes the content, timing, sequencing and significance of administrative reform,” efforts pursued at the outset of PAR, before significant progress has been made in EI, can be rendered futile if significant parts of PAR have to be redesigned in the advance of EI. Moreover, the Europeanisation of a country’s PA does not stop at the point of its accession to the EU. Since co-ordination of EU policy-making poses “numerous and particularly difficult and distinctive problems” before the national PAs, “a long-term view [to PAR], going beyond the management of accession to include the management of membership” should be adopted by the government of a EU applicant country.

Secondly, the prioritisation of EI has often resulted in the application of advanced administrative practices in this sector and their considerable successes, without later transferral of this know-how and experiences to the rest of the public administration. Hence, institutionalising strong connections between PAR and EI early in the accession process can help avoid the EI management sector remaining an “island of excellence.” Thirdly, in a country with a strong legalistic administrative tradition, such as Serbia, the subject of this study, there is great danger of PAR remaining limited to law adoption (and implementation to a certain extent), without deeper effect on procedural structures and working cultures. Hence, if in the course of PAR the entire PA has frequent contacts with, or is influenced by, the EI structures, which are the most exposed to European practices and working environments, the probability of PAR penetrating into the entire administration might be increased.

In view of the aforesaid, this paper examines PAR and EI processes in Serbia with the intention of pointing to the need for stronger links between the two processes. It also draws recommendations for the improvements in the linkages between the two processes. The links between PAR and EI are examined on two levels: that of the strategic document, i.e. the plan of reform, and that of the reform reality. The analysis of the PAR Strategy serves to examine the extent to which the reform design was based on the essential European administrative principles. In addition, it looks at the provisions expressing explicit links between PAR and EI, in terms of references to EI and institutional arrangements for connecting the two processes. The ensuing scrutiny of the actual reform implementation reveals the real and potential linkages between the PAR and EI in the actual operation of the institutions managing PAR and those managing EI. The chapter on the reform reality also draws attention to the prevailing administrative tradition

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in order to point to an additional challenge to the success of a holistic approach to PAR, which would be based on building Serbia as a future EU member state. This concern is given particular consideration in the recommendations offered in the conclusion to this paper.

The methodology applied is qualitative, given its suitability for "[engaging] in research that probes for deeper understanding rather than examining surface features." In her approach towards data collection, this author combines field research with the archive based one (both primary and secondary sources). One part of the field research, i.e. six semi-structured, face-to-face interviews with individuals involved in different ways in PAR and EI in Serbia, were performed in March 2005 for the purpose of writing a Master Thesis at the College of Europe, on which this paper is partially based. The data have been updated through this author’s working experience at the European Integration Office of the Government of Serbia. Before moving to the analysis, the following section outlines the domestic context within which the analysis is situated, in order to render the discussion more comprehensible to an international reader.

1.1 Context

After the collapse of the communist regime and the consequent dissolution of the Socialist Federal Republic of Yugoslavia, the rump Federal Republic of Yugoslavia, comprised only of Serbia and Montenegro, endured another authoritarian regime. More than a decade of Milosevic’s rule in the country resulted in an immense deterioration of the country’s economy, international reputation, but also its administrative capacities. Until the democratic change in October 2000 Serbia and Montenegro were separated not only from the transitional path of other post-communist European states, but also from other former Yugoslav states which initiated their democratisation earlier. Even after the decisive defeat of Milosevic and the initiation of a phase of intense reforms, several internal political questions have remained the priorities, thus drawing attention and energy away from the urgent reform areas.

One of these questions, with important implications on the subject of this study, i.e. the reform of public administration, is the still uncertain relationship between Serbia and Montenegro. The State Union of Serbia and Montenegro, created in 2003 as a temporary solution to the constitutional crisis between the two republics, was given very limited competences. Such a compromise between Serbia and Montenegro had major implications for administrations of both member states and state union, as numerous competencies were transferred to the member state level and the former federal institutions’ personnel was redistributed to the member states’ organs. Accordingly, three separate PAR agendas were created: Serbia and Montenegro were to pursue (or continue) their own administrative reforms, while the state union administration was, not only left with the equally unfortunate legacy of the Milosevic’s regime, but also impoverished by the severe drop in the significance of the common state.

Therefore, the reform of the Serbian public administration was begun in a systematic manner rather late in comparison to economic reforms. The first post-Milosevic government, led by the Prime Minister Zoran Djindjic, pursued administrative reforms in a rather hectic manner, while it concentrated more on economic issues. The

8 Slovenia and Macedonia initiated transitional processes immediately after the dissolution of the Former Yugoslavia in 1991, Bosnia and Herzegovina after the Dayton Agreement in 1995 and Croatia partially during the authoritarian regime of Franjo Tudjman, and more decidedly after his death on 10 December 1999.
9 These are the question of Kosovo’s final status, which remains unresolved, co-operation with the Hague Tribunal (ICTY) and the relationship between Serbia and Montenegro, i.e. the question of the survival of the common state.
10 This constitutional crisis between Serbia and Montenegro occurred during Milosevic’s rule, when a new regime was installed in Montenegro, hostile to Milosevic, but supported by the West. After Milosevic was overthrown on 5 October 2000, the Montenegrin regime started to push hard for complete independence for Montenegro. This crisis was temporarily ended by the so-called Belgrade Agreement, reached only through strong intermediation of the European Union, signed in Belgrade in March 2002. The outcome was the creation of the State Union of Serbia and Montenegro, which arguably has rather confederal (than federal) nature. The competencies of the Union were specified in the Constitutional Charter which took another year to be completed, due to the opposed interests of the Serbian and Montenegrin representatives to the Constitutional Commission formed to draft the Charter. The final document, ratified on 4 February 2003, limited those competencies to defence and foreign policy, together with limited competencies in minority and human rights and internal and external trade relations. See: “The Constitutional Charter of the State Union of Serbia and Montenegro,” Website of the Government of the Republic of Montenegro, <http://www.gom.cg.yu/eng/biblioteka.php>, Article 60.
Government Strategy for PAR was adopted as late as October 2004, i.e. only after the formation of the second post-Milosevic government, which undertook a more coherent approach towards this process than its immediate predecessor.

At that moment, the relations with the EU had already become considerably improved. The Thessalonica European Summit in June 2003 declared the Western Balkan states potential EU members and promised support to their rapprochement with the Union. By the end of 2004 the European Commission was already preparing the Feasibility Study for Serbia and Montenegro’s capacity to open negotiations for the Stabilisation and Association Agreement (SAA). In April 2005 the Commission’s positive report was adopted by the Council of the European Union and the SAA negotiations were initiated on 10 October 2005. The two important processes, PAR and EI, were both set in motion, and the reasons created to address the question of their institutional linkages which would allow them to advance as two parts of one large process of the transformation of the Serbian state.

Chapter 2: PAR Strategy: Links to EI Process

This chapter examines the extent to which the Strategy of Public Administration Reform in the Republic of Serbia incorporates the EU integration process, thus forming the basis for the process of building a future EU member state. The analysis is performed on two levels. Firstly, the Strategy is examined for how much it reflects some of the essential administrative principles of the EU, as defined by the SIGMA paper “European Principles for Public Administration,” in particular in their application to the civil service. Secondly, the analysis of the Strategy searches for the links to the European integration process, by looking first at the references to the objective of EU accession. Next, the institutional arrangements for PAR management are examined, with the aim of finding out to what extent the Strategy foresees institutional links to the EI management.

2.1 Respect for the EU Administrative Criteria

One way to discover whether the PAR strategy, which represents the foundation of the administrative reform, is produced as a part of the process of building a future EU member state is to analyse this document on the basis of its consistency with the administrative principles promoted by the EU. “The main administrative law principles common to western European countries” have been explained and promoted to the candidate countries through the SIGMA paper no. 27 “European Principles for Public Administration.” They are systematised in four main groups: 1) reliability and predictability (legal certainty); 2) openness and transparency; 3) accountability and 4) efficiency and effectiveness. As a national strategy for PAR defines the basic principles which should guide the entire administrative reform process (legislation and implementation), it is important to examine to which extent the Serbian PAR Strategy is in line with these fundamental European administrative principles.

When analysing the Serbian PAR Strategy for its references to the European administrative principles, one may first observe that its introduction explicitly states that the success of the administrative reform depends on the existence of a “Strategy of Public administration reform based on the general principles of the European Administrative Space, ‘good governance’ and the concept of ‘open government’.” These are put forward as the preconditions if the reform is to be “carefully planned” and “accepted by all,” as well as if it is to survive the changes of the political equilibrium in the country, i.e. the changes of governments. The four groups of principles that SIGMA defines as the basic European administrative principles are explicitly cited as the values the government must respect throughout PAR. Moreover, respect for these values is referred to as one of the steps which will contribute to the international integration of the country. There is an understanding spelled out in the Strategy that the principles of organisation and functioning of the public administration in the EU member states represent the main starting point, as well as the ultimate objective, to be attained through the planned reform. The four groups of principles are once again emphasised in the discussion of the legislative framework for the achievement of a professional and depoliticised PA. Hence, one can observe that the Serbian PAR Strategy offers significant explicit reference of the European administrative principles, as defined by SIGMA 27.
2.1.1 Application of the European Administrative Principles to the civil service

When it comes to the actual respect for those principles in the reform strategy, it is instructive to analyse the way the organisation of the civil service is planned. The civil service aspect of PA is dealt on two levels in SIGMA 27. The principles of legal structures for a professional civil service are addressed first, followed by the discussion of the management of the civil service in the “administration through law” context. These two aspects of the organisation of the civil service foreseen by the Serbian PAR Strategy are considered here as well.

Legal Structures for a Professional Civil Service

The state is responsible for ensuring that the PA functions according to the basic administrative principles and, in its role of the employer, that the performance of the public administration is efficient, professional and impartial. Hence, as the “holders of state powers,” civil servants must guarantee the actual implementation of these principles in their daily work. Therefore, the legal act which defines the relationship between the state and the civil servants must enshrine the main administrative principles, as well as “impose them upon public officials.” The requirement for a legislative act which would define the legal conditions for the civil service is explicitly stated in the “European Principles for Public Administration.” The Serbian Strategy pays due respect to this requirement and substantially deals with the intended provisions and objectives that the civil service act would have.

In order to have a “modern, constitutional civil service in a democracy” SIGMA 27 enumerates several conditions:

- “Separation between a public sphere and a private sphere;
- Separation between politics and administration;
- Development of individual accountability of civil servants by overcoming former collegial decision-making processes […];
- Sufficient job protection, stability, and level of pay, and clearly defined rights and duties of civil servants;
- Recruitment and promotion based on merit.”

The Serbian Strategy addresses all these conditions in the discussion of the civil service reform. It especially deals with depoliticisation and professionalism in the civil service, which are cited as two out of five basic principles which are to guide the Government in the administrative reform. In fact, through a rather detailed discussion on how to achieve these two fundamental characteristics of the civil service, the Strategy addresses all of the conditions enumerated in SIGMA 27.

As mentioned above, the Strategy lays out the requirement for a separate law on civil servants, thus addressing the condition to separate the public sphere from the private one. In addition to the requirement for a law on civil servants which would contain a whole set of particular rights and obligations for its addressees, the Strategy also proposes that there be another separate law for those employees in the public sphere which are not civil servants.

According to the Strategy, the two main ways of achieving the principle of depoliticisation are the development of the career system—coupled with clear definitions of political and administrative positions and clear division of responsibilities and competencies between these two categories—and the establishment of mechanisms to prevent political influence over the civil servants. Thus defined, the principle of depoliticisation is also acknowledged as necessary for the creation of a permanent civil service on the highest level, a condition for ensuring professionalism and continuity, which feature among the principles emphasised in the SIGMA paper. Moreover, the Strategy explains the role of depoliticisation in building the awareness of the role and significance of the public administration for the overall development of the society, regardless of the political equilibrium. This is tightly connected with building public confidence in the administration, which SIGMA 27 points out as one of the specific targets in the work of the public servants.

The Strategy also envisages merit-based recruitment and promotion, explains how to provide sufficient job security and lays out the main principles to be respected in the reform of the pay system. Individual accountability of the civil servants is foreseen, not only through a requirement for a law on administrative procedure, but also through a provision for a law on ombudsman.

**Managing Civil Service**

“European Principles for Public Administration” deals with the issue of the civil service management in an “Administration through Law” context on three levels: (i) development of professional public managers, (ii) factors in the administrative system on which the attitudes and behaviour of all civil servants depend, and which influence their capacity to perform with professionalism, and (iii) civil service (or human resources) management. The latter two issues are addressed in the Strategy, although the last one, civil service management, perhaps not entirely in accordance with the recommendations offered by SIGMA 27. Namely, although the Serbian Strategy dedicates an entire section to the principles for human resources management, it never specifies an institution which would be in charge of this task, together with training for civil service, which is what the SIGMA paper recommends.

The first aspect, however, i.e. professional public managers, is not addressed at all in the Serbian PAR Strategy. Therefore, some more discussion of this issue is needed, given its great importance for the capability of a country to function well in the EU multilevel system of governance. “European Principles for Public Administration” calls for the development of the public management profession within the candidate countries’ civil service systems. The rationale behind this requirement is the fact that “[the] kind of permanent management positions that can be found at higher levels within Western civil services was, and still is, in most central and eastern European countries, the prerogative of the political class.” The attempts to depoliticise top civil service have resulted in those positions usually being held by experts very competent in their fields, but not capable of performing management and co-ordination functions.

The Serbian PAR Strategy contends that the recent experiences of some state organs of the Serbian PA, where the top positions (apart from the head of the organ) have been filled in with experts in the area, rather than political appointees, have proven positive for the efficiency and quality of work, as well as much better and easier coordination of different tasks. Although this solution represents part of the solution for the problem of politicisation, it does not go on to discuss a strategy for rendering these experts good public managers. The Serbian Strategy does not address the need for “top public managers, with broad perspectives and ability to co-ordinate their work with both national and international institutions,” emphasised in the SIGMA paper. Therefore, it might be deduced that the Serbian Strategy does not take into consideration the criticism addressed by SIGMA to the countries of the previous enlargement in this field. In the section dealing with the contemporary management systems, the Strategy mentions the necessity of good planning, leadership and control, as well as internal system decentralisation, which in essence should lead to the development of managers within the civil service. However, it falls short of tackling the question of the challenges of integration into the EU system which renders “national policy-making more and more complex and more and more exposed to international co-ordination.” An observation can hence be made that this section of the Serbian PAR Strategy does not sufficiently account for the EI perspective and the need to create a management system to function well inside of the EU machinery, i.a. by enabling top civil servants to perform as good managers and decision makers.

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22 i.e. top level civil servants who are also trained for management and co-ordination. See “European Principles for Public Administration,” OECD/SIGMA no.27, (1999): 24.
23 This can be considered a result of the political sensitivity of this issue at the time the Strategy was being drafted. Namely, the Ministry of PA and Local Self-Governance had been created already in 2002 and human resources management was among its competencies. Therefore, creation of a separate institution for HRM and training would signify a partial loss of its tasks. However, the Law on Civil Service, passed in 2005, envisages an Agency for HRM, which is to overtake this function as of 1 July 2006. The problem of training for civil service, which is being done by several different institutions and above all unsystematically, is still under discussion at the time of writing of this paper.
In conclusion to the analysis of the Serbian PAR Strategy for the reference to and incorporation of the European administrative principles, one may observe that if the broader definition of the European Administrative Space is accepted, the Strategy seems to sufficiently provide for an administrative system in line with the emerging EAS. However, although the general administrative principles discussed in SIGMA 27 are stated as the most important principles on which the Serbian PA must be based, in the actual application of these principles to the envisaged organisation and management of the civil service some drawbacks have been identified.

2.2. Links between PAR and EI

This section examines the linkages between PAR and EI foreseen by the Serbian PAR Strategy. It examines the actual understanding of the connectedness of these two processes in the Strategy, in terms of the references to the EI, as well as in the institutional sense.

The basic objectives and principles of PAR, as envisaged in the Strategy, encompass harmonisation of the legislation with the EU law, which is considered an important precondition for the dynamics of the (EU) integration process. The experiences of the countries of the previous EU enlargement are considered to be the source of valuable help, “in the first place with the aim of avoiding traps that exist on the reform path.” An important element in the Serbian Strategy is the analysis of the impact of every legislative act on the process of future EU accession. It is explicitly stated that this analysis is motivated by the objective of faster integration into the EU. The Strategy seems to declare a link to EI when stating that “public administration reform process should develop simultaneously with the related development frameworks and programs” i.e. the European Partnership and the future SAA. The aim is to ensure that “various development initiatives in the transition process [are] integrated and mutually adjusted.” Moreover, the awareness of the Serbian Government of the impossibility of achieving the desired long-term goals on any field in the absence of strong, capable and stable institutions is clearly expressed. Yet, the section on the management of PAR, merely restates that the continuity in PAR is necessary in view of the connections of other reform areas with PAR as well as their significant impact on PAR. No explicit mention of EU integration as one of the top Government priorities is made. Although the Strategy does offer explicit references to the EI process, the discussion of the numerous implications that EI poses for PAR is missing. The importance of approaching PAR from the aspect of building Serbia as a future EU member state is not addressed. Therefore, the document falls short of stating explicitly the necessity of linking the two processes. As the following analysis reveals, a similar conclusion can be made regarding the provisions in the Strategy to link the two processes through institutions.

According to the Strategy, PAR management is organised on three levels. The strategic guidance is to be performed by the governmental Council for Public Administration Reform, headed by the President of the Government (Prime Minister). The other members of the Council are the Vice-president of the Government, Minister for Public Administration and Local Self-Government, Minister of Finance, Minister of Justice, Minister of Interior and the Secretary for Legislation.

On the operational level the tasks of the administrative reform are the responsibility of the separate Ministry of Public Administration and Local Self-Government (MPALSG). An additional institutional provision in PAR management is for the so-called reform-teams (or reform coordinators) which should already have been established in each of the organs of the PA. According to the Strategy, the role of these reform teams is to coordinate, promote, supervise and provide expert support to concrete activities in PAR in their respective institutions. The Strategy states that “special attention will be paid to the strengthening of reform teams and their coordination, in the first place because of the need to carry out the general program of public administration reform in an adequate way in all the ministries and other organs.” However, the Strategy mentions no link to, or obligation to cooperate and coordinate activities with, the EI units in the line ministries. No inter-ministerial body, providing for intersectoral co-ordination of the process (and potentially also a link between PAR and EI) is envisaged by the PAR Strategy. Therefore, institutionally, there appears to be no intentional link between the EI and PAR foreseen in the Strategy.

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29 According to this definition, the EAS is “about how administrative systems work, i.e. [about] their general qualities of reliability, predictability, certainty, efficiency, due process, transparency, ability to challenge, etc.” See: Fournier, OECD/SIGMA no.23 (1998): 123.

30 This impact assessment is to be performed in addition to the cost-benefit analysis (to be part of every bill) and the general impact assessment (before the drafting and after the implementation).

31 EI units in the line ministries will be discussed in the following chapter.

32 For the discussion of an arguably incidental link, which is achieved in the Council for PAR, please see Section III below.
In conclusion to the section on PAR and EI linkages as envisaged in the Serbian PAR Strategy, one may observe the following: The Strategy, even though it was drafted after the introduction of the European Partnership, does not make much reference to the EU membership goal. Although this objective is taken into account, it is not stressed much throughout the document and many of the references are rather vague. This might be consequence of the already evident EU vocation of Serbia, which was not perceived as indispensable to stress in the PAR Strategy. The Serbian Strategy does refer to the European Partnership as a related development process of PAR and it makes reference to the “analysis of the effects of [legislation] upon the process of future accession of Serbia to the European Union.” But perhaps much more importantly, the analysis of the institutional provisions for connecting these two processes reveals no intentional institutional links and thus leaves co-ordination between the two processes entirely to implementation and political equilibrium of the day. This issue is discussed in detail in the following chapter dealing with the actual institutional linkages between the Serbian PAR and EI, as observed in the operation of the institutions.

Chapter 3: The Reality of PAR
While the previous chapter has analysed the linkages between the public administration reform and the European integration process in Serbia as foreseen by its PAR Strategy, this section analyses the reality of reform, i.e. the existence of the linkages between PAR and EI in the actual operation of the existing institutional structure. Such an analysis is performed with the purpose of pointing to the opportunities for further development of these links, as well as the deficiencies and possible obstacles to such a development. The analysis is performed at three levels. Firstly, the present institutional and operational links between PAR and EI are examined, based on the interviews performed as part of the research and first-hand experience of this author. Next, an overview of the “other side of the coin” is offered, i.e. the possibilities of linking the two processes within the institutional structure of the EI structures in Serbia. Finally, and in light of the new institutionalist approach of this paper, this chapter draws attention to the administrative tradition which can influence the perceptions of the actors in the EI and PAR processes. The objective is thus to point out an additional challenge to the further development of the PAR–EI linkages, which is finally addressed in the recommendations offered in the paper’s conclusion.

3.1 Linkages in the PAR Management Structures
In the previous chapter, the institutional arrangements for the management of PAR as detailed in the Serbian PAR Strategy were analysed. This section looks more closely at how the institutional set-up works in reality at present and reveals some (perhaps unintended) linkages between PAR and EI. The main basis of the analysis are the interviews with several individuals directly involved in PAR and/or EI as well as this author’s first-hand experience. As discussed in the previous chapter, the Serbian PAR Strategy does not provide for an explicit, intentional link between PAR and EI, as no representative of the EI structures is a member of the Council for Public Administration Reform of the Government. An interesting fact, however, is that at present the Vice-President of the Government (who is indeed the member of the Council) is at the same time the Chief negotiator for EI. Therefore, in practical terms the link exists on the highest strategic level. This link is potentially of great importance, given the rather prominent role of this individual in the present coalition structure. In addition, he is the “political head” of the Serbian European Integration Office, which makes him highly sensitive to the EI issues. Therefore, he has the capacity to bring the issues from the EI to the PAR agenda, potentially also through his personal relations with other relevant actors within the Serbian PAR.

However, there are at least two problems with this institutional link. Firstly, the fact that the Vice-President of the Government happens to be the Chief negotiator for EI is not a foreseen institutional arrangement, but rather a coincidence in the current political equilibrium. Hence, as no deliberate institutional provision exists placing the Chief negotiator in the Council for PAR, the first change in the coalition structure or the change of government might result in utter exclusion of the political EI management from the political PAR management. The second problem is that for the establishment of a functional link which would help prepare the Serbian PA for future EU membership through the PAR Council, there would have to be very strong awareness of the importance of linking

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33 In accordance with the Law on Government, the Prime Minister delegated this role to the Vice-Prime Minister.
34 This is explained by the fact that the position of the Chief Negotiator was created after the adoption of the PAR Strategy. However, one can still argue that a provision could have been included in the Strategy that the highest strategic post in EI process, once defined, should be represented at the Government Council for PAR.
35 Although the President of the Government (Prime Minister) heads both the Council for PAR and the Council for European Integration, this cannot be considered as a real institutional link, as his involvement in these issues is rather general.
PAR with EI on the highest political level, which at present seems to be missing or insufficient to provide for such a message to the PA and the public. But even then, there would also have to exist effective co-ordination mechanisms between the people managing the PAR and EI processes at the operational level.

Although the PAR Strategy makes no such explicit provisions, in reality a rather tangible link exists. The MPSALG, which is the key body responsible for the actual management of PAR, has in its structure a unit for EI. However, as the EI units have been created in the line ministries as part of the EI management structures, the role of MPALSG’s EI unit in the establishment of co-operation with the EI management will be discussed in the following section dealing with the “other side of the coin.” The reform teams for PAR mentioned in the previous chapter have not been made functional up to date. In fact, the idea of forming these reform teams has seemingly been given up on.36 Therefore, they are not relevant for the discussion of the reform reality.

3.2 Other Side of the Coin: EI Sector

Even before the Thessaloniki European Summit offered a more determined EU perspective to the Western Balkans and the European Partnership institutionalised the EU-Western Balkans relationship to a greater extent than before, Serbia had embarked upon the creation of “specialized sub-systems for European integration” to serve “a crucial purpose of preparing and coordinating negotiating positions” in the process of EU accession.37 The system has changed and developed with the advance of the EI agenda, to come to be evaluated by the Commission as sufficient for the opening of negotiations for the Stabilisation and Association Agreement (SAA). This section investigates the potential of this sector to relate the PAR and EI.

On the highest political level the task of steering the EI process has been vested in the governmental Council for European Integration which is an expert-advisor body of the government and which assembles eleven ministers together with the President of the Government (Prime Minister) and the Vice-President of the Government, Secretary General of the Government, and the Director of the Serbian European Integration Office (SEIO). It is charged with monitoring, reviewing, evaluating and streamlining the country’s EI process, as well as “[providing] political support to the activities relating to the process.”38 Among others, the Minister for Public Administration and Local Self-Government is also member of the Council.39 Therefore, the Minister has the possibility of placing PAR issues on the EI agenda. In practice, however, the Council for EI meets only when major events occur in the country’s relations with the EU, such as was the initiation of the negotiations for the SAA. This means that, if exploited, this link could provide for no more than a political message and political guidance in relating the two processes. However, as mentioned in the discussion on the Council for PAR, in order for this link to serve its potential purpose strong political commitment to relating the two processes and awareness of the importance of achieving this link would need to exist in the first place. Moreover, to achieve a functional connection between the two processes, in addition to the link on the political level, other institutional arrangements would have to exist and operationalise it.

A body with a more operational-strategic function is the Commission for the EU Accession Coordination, established as early as October 2002. The Commission was envisaged as an “operational body that would coordinate and streamline the activities of the Republic’s institutions and organizations in the Stabilisation and Association Process.”40 It is top civil servant positions (according to the legislative changes and depoliticisation objective foreseen by PAR) that are represented in this body, although at present some of these posts are still occupied by political appointees. The Commission “meets once a month on average, depending on how many issues have come across that need to be dealt with jointly.”41 It has been vested with substantial responsibilities in the EI process and the description of one of its tasks entails a link with the PAR. Inter alia, it is to “propose measures as regards legal

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36 Interview with an employee of the MPALSG.
41 Interview with Mirjana Savic, SEIO.
harmonisation, institutional changes and reform of policies that the Republic of Serbia is responsible for, which are not only a condition but also a necessity in the European integration process.”

Moreover, the Commission is usually organised in order to prepare the building, could represent a substantial link with PAR. In practice, however, Secretary is usually replaced by someone on a much more operational level. Moreover, the Commission is usually organised in order to prepare the ministries for each meeting of the Enhanced Permanent Dialogue with the EU as well as for each round of SAA negotiations with the EU. Therefore, the agenda usually focuses on sectoral issues and while the administrative capacity building for a specific sector can usually be the topic (given that it often figures on the agendas of the EPD meetings), PAR is less likely to be discussed there. For a functional link between PAR and EI to be created in the Commission, there would have to be very high awareness of the role of PAR in EI within the MPALSG leadership and accordingly willingness to discuss PAR questions at the Accession Commission meetings.

The core implementation and coordination of the EI in Serbia is heavily dependent on the performance of the executive institution created in the EI sector. Such institutions are formed in all countries aspiring EU membership for the day-to-day management of the accession process and main communication with the European Commission. They are often referred to as the “European secretariats.” The role of these institutions is duly emphasised in the Feasibility Study for Serbia and Montenegro as well. After the EI issues had been managed for several years by one of the departments of the Serbian Ministry of International Economic Relations (MIER), in March 2004 the Government of Serbia transferred it to the Centre of Government, under the responsibility of the Prime Minister. The newly established Serbian European Integration Office (SEIO) resulted from a perceived “need of having a strong authority that would efficiently coordinate the EU association process.” The SEIO was envisaged as a strengthened successor of the MIER’s European Integration Department with some new responsibilities. The essence of SEIO’s work is co-ordination activities, while the line ministries and other sectoral institutions are responsible for implementation, each within its own competencies.

An important consideration for the present analysis is the role of the SEIO’s Department for Institutional Building and Training. One of the competences of the SEIO is indeed “alignment of institutional potentials of the Republic of Serbia […] with the needs of association and accession to the European Union.” It also “prepares acts by which the Government supervises, directs and aligns activities of the ministries and special organisations relating to association and accession to the European Union.” As a result of this competence, this “proactive” institution has the possibility to act as the engine of the process of connecting PAR with EI, through fruitful cooperation with the MPALSG. Nevertheless, the SEIO must stay alert in order not to be perceived as interfering with the MPALSG’s competencies. Therefore, all activities performed by this department at the SEIO are agreed and closely coordinated with the MPALSG. The main contact point of SEIO in the MPALSG is the Sector for EU law harmonization, international co-operation and project management, within which this ministry’s EI unit operates. The SEIO’s institution-building department has recently proposed to the MPALSG several initiatives which should, directly or indirectly, increase the awareness of the need to relate PAR and EI and realise some concrete activities aimed at

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42 In addition to this, the Commission has the following tasks: to propose measures for setting up and promoting cooperation between republican bodies and organisations responsible of passing and implementing European integration policies; to determine the priorities and best methods for the approximation of Serbian policies and regulations with the EU standards; to monitor the implementation of the proposed measures. Commission for EU Accession Coordination, Website of SEIO, <http://www.seio.sr.gov.yu/code/navigate.asp?id=72> (April 2006).

43 If power were delegated vertically within the ministries, this would not necessarily be a problem, but in the absence of such power delegation, the representative of MPALSG in fact has no decision power.

44 Interview with Ms. Mirjana Savic, SEIO.


relating the two processes. One of these initiatives, which has already been accepted by the Government, and is now being done in co-operation with the MPALSG, is the Action Plan for Institution Building in the Process of EU Integration (AP). This AP can be considered as a precursor of that part of the future National Programme for the Adoption of the Acquis which deals with PAR and administrative capacity development. The AP contains priorities and concrete measures for institutional strengthening in the context of EU accession for a number of sectors, but also for horizontal PAR, which occupies a whole separate chapter in this document.51

Units for EI have been created in most line ministries as SEIO’s contact points and co-ordinators of all EI related activities in each of the ministries. Although some ministries have integrated them into their already existing sectors for international cooperation and in some cases capacities are insufficient to deal with the heavily increasing workload, the cooperation between the SEIO and these units is functional and constantly improving. Connecting the EI units with the PAR reform teams discussed in the previous chapter could be a good opportunity for tackling the problem of relating PAR to EI from the bottom. However, for this link to exist, the PAR reform teams should exist in the first place, after which provisions would have to be made for their joint work. Therefore, this link is not likely to become functional.

The EI management structures are still in a rather early stage of development. Due to the weak and fragmented CoG and very strong and independent ministries,52 rendering the SEIO a really influential institution is a slow process. However, with the advance of the EI process, the SEIO will inevitably be increasingly perceived as a salient actor in the Serbian PA, which will enable it to strengthen even further its co-operation with the MPALSG, thus forcing the EI aspect into the PAR agenda, and consequently strengthening the EI link with PAR. At the same time, projects are being carried out with the purpose of strengthening the CoG in the Serbian administrative structure, which should also contribute to strengthening the leverage of the SEIO in respect to the ministries in the future. If SEIO becomes the main driving force behind connecting PAR and EI (through its ‘ownership’ of the Accession Commission and its proactive co-operation with the EI unit in the MPALSG and in other ministries), it can positively affect, not only the cross-sectoral co-ordination in the EI management, but can also spread this “best practice” to the rest of the PA and thus positively affect PAR as a whole.

In conclusion to this section one may say that the potential of the EI to drive the PAR agenda is high, as the institutional arrangements are suitable and more fitting to link the two processes than the PAR institutional setting. Consequently, with further advance of the EI process, it can be expected that the rise in the awareness on the highest political level, as well as an increase in the pressure for such developments from the EU, will render the EI structures the main venue for making the connection between PAR and EI real and operational.

3.3 Challenges: Tradition & Perceptions

Even when institutional links exist and reforms are on the way to implementation, attitudes and values embedded in administrative traditions can interfere with the desired path of institutional change. In the new institutionalist viewpoint, it is contended that “[w]hen purposive institutional change is attempted, old’ and ‘new’ rules may exist in tandem, governing interactions in different parts or at different levels within political system.”53 In order to understand the role of culture within the Serbian PA, one need to first understand its historical path that has revolved around certain traditional features. These traditions are reflected in the attitudes of the actors within the PA, the transformation of which, as already mentioned, “can only be achieved very gradually.”54 Based on the opinions and attitudes expressed by the respondents that this author has interviewed, the prevailing administrative tradition is identified as a possible challenge to be specifically addressed in the reform implementation.

Serbian administration can be identified within the legalist, German/Austrian tradition which formed the base of the “Vidovdan” Constitution of the Kingdom of Serbs, Croats and Slovenians (Yugoslavia) already in 1921.55 Until the Second World War, Yugoslavia had developed an apolitical, professional civil service, highly esteemed by the

51 At the time of writing of this paper, this AP is going through the final phase of collection of comments and opinions from all ministries and special organisations in the PA. It is expected that the Government adopt it in April this year (2006).
public and with a strong respect for the rule of law. In the post-World War II period the administration remained viewed by the population as one of the most privileged professions. The socialist Yugoslavia was the only of the communist European countries whose civil servants were between 1946 and 1963 subject of a special Law on Public Servants (even though it was not as specific as the modern civil service acts), rather than the general labour act, as was the practice in other communist states. When the more mainstream communist practice of submitting civil service to the general labour rules and thus officially erasing the difference between a civil servant and a worker was introduced in 1978, the strong civil service tradition prevailed, thus maintaining the image of the civil service as a “privileged group.” Thus, the PA was clearly distinguished from other professions in the country where the predominant sector was the public one.

The change in the quality, as well as the reputation, of the PA came after the break-up of the Former Yugoslavia and the advent of the Milosevic regime in the rump FRY. Both Serbia and Montenegro, which soon after the dissolution of the socialist Yugoslavia created their own separate administrative systems, opted for re-introducing a special law to govern the rights and duties of the civil servants in 1991. Nevertheless, low salaries contributed to the “drain” from the public towards the private sector, as well as the development of corruption and the disappearance of the respect for the rule of law. Even though the impartiality of the civil service in its work was held up to a certain degree, politicisation increased through disrespect for the laws in power and the increase in the political activity of the civil servants. The number of political appointments based on party affiliation increased, especially for the posts of the deputy minister. The once high esteem for the public administration in the public came down severely, due to both political and economic factors.

Arguably, “an indigenous path of development,” which has in the past produced “very original” versions of the efforts to apply other countries’ reform models, is prevalent in the countries of the Former Yugoslavia. This strong tradition is unfavourable to reform as the “civil service tends to be unreceptive to the introduction of new modern organisation structures, operating practices, ideas.” The old legalist bias has outlived both communism and the subsequent Milosevic’s authoritarian regime, as well as the disappearance of the rule of law as a norm. Today, this bias performs a very negative role in the PAR, as there is a strong tendency to regard this process in terms of law adoption, while deeper re-structuring of the system does not receive sufficient attention. This tendency towards “over-reliance on legislation as the main reform instrument” has been observed in the CEECs as well, given the legalist tradition they share with former Yugoslavia. At the same time, insufficient attention has been given to the “reform of administrative structures and processes,” while civil service reform has been over-emphasised, which accounts for the long persisting failures of the CEECs to build their administrative systems successfully.

The interviews this author has performed for the purpose of this study have confirmed the statements made above to a large extent, although there have been exceptions as well. The opinion of an expert on PAR in Serbia was that the approach towards PAR in the country is very legalistic, with the process mainly managed by lawyers, which in “this country with French-German heritage is understood to be about changing the law on PA, the law on civil service, or introducing some new mechanisms on how to ‘better coordinate’ in the sense of receiving a signature or consulting a certain person if a new law is to be developed.” Hence, there might be danger of PAR and EI remaining predominantly viewed in terms of law adoption and legislative harmonisation, without due emphasis being placed on the holistic approach to these processes in which regulatory action would be no more than the prerequisite for deeper structural changes. Nevertheless, on the basis of the responses of the interviewees and this author’s

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59 In Serbia this was the Law on Labour Relations in the State Organs, see Sevic and Rabrenovic, 63.
64 Sevic and Rabrenovic, in Verheijen (1999): 78.
68 Interview with Nenad Rava, UNDP, Serbia.
experience working in the Serbian civil service, there seems to be a critical mass of civil servants aware of the importance of linking PAR and EI strongly or at least highly receptive to the information on the relatedness between these two processes. If the right set of recommendations are drawn and implemented, this critical mass might be sufficient to stimulate both the awareness on the highest political level needed to guide the changes and the understanding in the wider civil service necessary if the right preparations for the accession to the EU are to take place in due time.

Conclusion: Recommendations

This paper has analysed the different possibilities for establishing working links between the processes of EU integration and public administration reform in Serbia. The principal assumption which has formed the basis of the argument and analysis is that the objective of EU membership poses a particularly complex requirement before the public administration of a candidate country, to not only prepare the accession to the EU, but also “[create] the capacity to benefit from membership.” Thus, the necessity for a given country to reform (or rebuild) itself into a future functioning EU member, rather than simply reform its PA, renders a strong connection between PAR and EI agendas primordial to the achievement of this essential objective.

The analysis has been conducted on two levels. Accordingly, chapter 2 has analysed the PAR Strategy of the Serbian Government in order to find out what links with EI it contains, both in terms of the extent to which it is based on some of the general European administrative principles, and in terms of referencing EU membership and institutional links with the EI management. The second level of analysis has been the examination of the reality of PAR and its links with EI. Thus, chapter 3 has offered an examination of both sides of the coin of the PAR-EI relationship: first through the analysis of the institutional possibilities for linking the two processes in the actual PAR management, and second through such scrutiny of the EI structures. The last section of chapter 3 has offered an insight into the administrative tradition and the resulting prevailing perceptions on the significance of PAR and EI. The aim of that section has been to point to an important challenge which needs to be tackled if a functional connection between PAR and EI is to be created.

The following, rather normative, approach to the question of connecting the PAR and EI has been expressed by one of this author’s respondents, expert on PAR in Serbia:

It has to be one and the same process. Which of them is going to be the umbrella, is the matter of approach. If EI is perceived as being all about harmonisation of legislation, then it will not receive the treatment that it should. If EI is understood as the political (mainly political, and then economic) transformation of the state in order to become an EU member, then I think that PAR (or governance reform if you wish) should be the core of EI.

When opposed to the reform design and reform reality in Serbia, such an approach appears as too idealistic. Nevertheless, it can be regarded as a model against which the progress in connecting PAR and EI will be measured.

The first conclusion stemming from this study suggests that the connection between PAR and EI should exist both in the PAR strategy, i.e. the design of reform, and in the actual reform implementation. In view of the importance of a holistic approach to PAR and its elaboration in a comprehensive strategic document, the PAR strategy should retain a central position in the reform process. Nevertheless, there is a danger of disregarding the strategic document and its potential input in the reform process after the initial phase of PAR is completed. Since the PAR strategy is a document encompassing the entire reform process and period, and giving coherence to the reform activities which might otherwise lack it, its importance should be emphasised throughout the reform process. In view of the deficiencies of the Serbian PAR Strategy examined in this study, a dynamic approach towards this document should be adopted. Accordingly, the action plan of the Strategy should be revised (possibly annually), however governed by strict application of specified rules, in order to prevent political abuse of such revisions and complete overhaul of initial strategies.

In the domain of PAR implementation, the analysis conducted in this paper implies that the link between PAR and EI should be created on both political and operational levels. The agenda-setting for the two processes should be tightly linked, hence ensuring not only participation of the same people in the bodies managing PAR and those

70 Interview with Nenad Rava, UNDP, Serbia.
managing EI, but also joint discussions of the problems and issues arising in the two processes. For this to be possible there is a great need for projects aimed at increasing the awareness of the role that PAR plays in the EI process. Such projects should preferably target both the highest political level of decision-making, which needs to realise the importance of interrelating institutionally these two processes, and the more operational level, which will only then be able to implement the processes as related. This might require much greater emphasis on these issues by both national and international advisers and experts engaged in both PAR and EI processes. Targeted projects should engage those actors within PA who are already familiar with the experiences of previous candidate countries in the role that PAR played in their EU accession and later performance as EU members. As a result of such projects, the awareness of all the relevant target groups should be raised and specific recommendations should be developed for institutional measures to be implemented.

Institutionally, the highest political bodies established for steering the processes of EI and PAR could be unified as a result of increased political awareness. Alternatively, the two governmental Councils should give out clear political signals to the rest of the government and to those involved in the implementation of the reforms that these two processes must be co-ordinated and viewed as deeply intertwined, with each of them bearing immense implications for the other. PAR dimension of EI should be discussed at the meetings of the EI Council and vice versa. In order to send out the appropriate message to the rest of the PA, the Serbian Government (instructed by the decision of the PAR and EI Councils) should adopt as one of its strategic objectives the gradual transformation of the Serbian PA into a system capable of co-ordinating successfully, not only the accession to the EU, but also future membership in the EU.

On the operational level, the optimal way to relate the two processes might be by involving the top civil servants of all line ministries and important state organs into a “single coordination body which would manage the PAR, EI and possibly donor coordination, but would also be given real competencies in policy design and implementation.” Measured against this possibly idealist model, improvements could be made by strengthening inter-ministerial co-ordination of PAR. The precondition would be to ensure the presence of the EI management in an inter-ministerial body which should be established to co-ordinate PAR. Vesting the MPALSG with the “ownership” of such a body might help overcome its potential reluctance to give up a part of the PAR co-ordination task and at the same time might actually increase the possibility of such a body functioning on a regular basis.

After the application of the top-down strategy, the bottom-up approach should be utilised. Accordingly, particular consideration should be given to the challenge posed by the lack of awareness on the part of majority of the Serbian civil service of the real implications of EI for the work and functioning of the PA. Given that most of the PA is not exposed to information about the experiences of the previous candidate countries in PAR and EI, they are highly likely to lack the knowledge of the specific requirements that co-ordination of EU programmes and policies places on national administrations. An already existing bias towards legalist understanding of EI and PAR, influenced by the administrative tradition, might be further aggravated if EI is promoted as no more than legislative alignment.

In order to prepare the entire civil service for the EU-accession triggered changes in the administrative environment and render civil servants active participants in the administrative changes needed for EI to run smoothly, targeted action is required. Only thus will it be possible to influence and gradually change the understanding within the civil service of the importance of EI for the entire PA. This is particularly of significance for those civil servants who should perform as managers and through participation in the various working groups and consultative bodies, above all cross-sectoral ones, have a more prominent role in the coordination of PAR and EI. Therefore, EI needs to be promoted to the civil servants (through projects and training) not only as the process of legislative harmonization, but also as the process involving deep structural changes within the state with particular impact on the PA. The understanding must be created inside of the PA that EU membership, as well as the process of negotiating EU membership, requires and imposes changes in the decision making powers and processes as well as intra-ministerial and inter-ministerial coordination mechanisms.

71 Interview with Nenad Rava, UNDP, Serbia.
72 According to Verheijen, both the centralised and decentralised systems of organising cross-sectoral co-ordination have their advantages. The CoG model can increase uniformity and reflection of the Government policy in the cross-sectoral bodies. In the decentralised model, working groups are organised by a responsible ministry taking ‘ownership’ of this task and seeking to ensure successful work of such cross-sectoral bodies. See Verheijen, “The Management of EU Affairs in EU Candidate States,” OECD/SIGMA no.23, (1998): 22.
The experiences of the accession processes of the CEECs should be regarded as a valuable source of lessons to be learnt for Serbia. In relation to that, special efforts are needed to channel these experiences properly, through consultative mechanisms, with particular attention paid at not stimulating their use as a justification for failures or even passiveness. In addition, the post-accession experiences not only in the CEECs but also in the states of the previous enlargements should be utilised in different projects (Twinning for example) with the aim of pointing out the real challenges that the EU membership poses before national administrations.

The absence of the hard *acquis* for PA, and the ensuing reliance on the “soft acquis” in the form of EU standards and principles promoted through the SIGMA programme and the baseline system, result in insufficient leverage of this soft criterion within the accession process. A positive change, however, can be observed in the European Commission’s standpoints regarding importance of PAR. The last European Partnership document for Serbia and Montenegro places PAR among the key short-term priorities to be addressed by the Government in the EI process. As a result of this external condition numerous activities can be implemented placing PAR and EI in the same context. Such is the abovementioned Action Plan for Institution Building in the Process of EU Integration, soon to be adopted by the Serbian Government.

Finally, it cannot be considered too early in the EI process to seriously consider such measures and try to enforce a joint PAR-EI agenda with the objective of preparing Serbia not only for negotiating EU accession, but also performing well upon accession. There are at least two reasons for that. Firstly, the EI process has advanced, with the negotiations for the SAA running well and to be finalised by autumn this year (2006). New capacities and coherent strategies will be needed to implement the Agreement. The acceleration of EI renders the objective of EU membership more visible and real, which can help mobilise its leverage for accelerating PAR. Secondly, in order to avoid the errors committed by the CEECs, which had difficulties in relating these processes in a timely manner, a long-term, strategic approach should be adopted as early as possible in the EI process. Only thus can Serbia avoid the dangers posed by the failure to prepare the PA for the challenges of EU membership, which were observed in the case of Greece, for example.

Finally, linking PAR to EI should in no way suggest subordinating this area of reform to the wider EI agenda. To the contrary, PAR should be given ever-higher priority by the Government at this stage, which will in turn render EI more successful as well. EI should be used as the leverage for setting the reforms in motion and giving them shape and direction.

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