

## *Agencies in Croatia: Something Old or Something New?*

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Agencification has been one of the main administrative developments in the last decades. In post-socialist transitional countries, agencies were introduced into a different institutional landscape; the growth in the number of agencies coincides with the process of the EU accession. The paper explores the basic features of the agency model in Croatia as well as the interconnectedness between the processes of agencification and Europeanization of public administration. Agencies in Croatia were created along with the advancement of EU membership, without the development of appropriate instruments of autonomy and control. The opportunity for deeper institutional change and the development of a genuine agency model has opened recently, with the economic crisis, with agencies being perceived as one of the main generators of blurred accountability and ineffectiveness. The socialization of agency members in the EU institutional context might lead to a new approach to agency model.

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## 1. Introduction<sup>1</sup>

Over the last three decades, the formation of agencies (agencification) has been emphasized as one of the most significant developments in public administrations worldwide (Pollitt *et al.*, 2004; Jordana and Levi-Faur, 2004; Christensen and Laegreid, 2006). Agencies are considered to be organisations that perform public tasks at arm's length from the central government, for the reason of their superiority over traditional ministries in terms of specialisation and expertise (Pollitt *et al.*, 2004). The greatest challenge of agency governance is how to achieve and maintain a fragile balance between, on one hand, a high level of autonomy with regard to their daily business (management, organisation, financing and personnel) and decision making, and, on the other hand, specific *ex ante* and *ex post* control mechanisms that replace the hierarchical political oversight typical for central government.

In spite of the global trend of agency creation and, consequently, the transformation of the classical hierarchical and monolithic state administration, the translation of the concept of agency into different institutional contexts has led to a different definition of agency, types of internal design and variety in agency relationship with its environment (politics, users, market) (*see* Verhoest *et al.*, 2012; Pollitt and Bouckaert, 2004; Pollitt and Talbot, 2004). In CEE transitional countries, agencification coincides with processes of institution building, administrative reform and Europeanization of public administration. The speed and multiplicity of changes, the variety of environmental and internal pressures for reform and the need to achieve a position in the competitive environment may have led those countries to introduce new institutional forms or procedures, often without substantive transformation of values, priorities or ways of doing things (*see* Goetz, 2005).

This analytical paper focuses on the problem of institutional change and institutional design in CEE transitional countries on the example of the

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development of agency model in Croatia by observing mutually related processes of agencification and Europeanization. After gaining independence in 1991, the Republic of Croatia has been going through the process of transition, building its institutions and implementing political and administrative reforms, reflecting the global and regional trends in the context of inherited political and administrative structures. In contrast to the administrative reform, which has been proceeding slowly, without strategic approach and clearly stated goals (*see* Koprić, 2009), the EU accession process from 2001 onwards has created additional, mostly formalised, pressures for institutional change. Although the agencies as relatively independent administrative structures are not completely new in Croatian legal and political system, the frequency of their creation has grown in the last decade, changing the landscape of the Croatian public sector.

The aim of the paper is to obtain insight into the agency model in Croatia by identifying its features and the relation between processes of Europeanization and agencification, drawing on the new institutionalism accounts of path dependency and related Europeanization concept. The agencification problem is addressed by giving a short overview of agency creation and agency features followed by a sketch of the theoretical approach to agency design and Europeanization. Then, after a short presentation of the Croatian political and administrative context in the past two decades, the findings of the research are described and analysed. The prospect for institutional change is discussed in the final chapter.<sup>2</sup>

## 2. Briefly about Agencification

### 2.1. The Drivers of Agency Model

The agency as model of administrative organization is an unavoidable part of contemporary public administration and management. Agencies exist in all areas of public activity, from national security to railways, scientific research funding or regional development, and at all territorial levels of governance. Although the beginning of agency fever relates mainly to the new public management (NPM) reform that started in Anglo-Saxon

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<sup>2</sup> The data presented below are part of a larger independent research conducted by the same author, but, for the reasons of space and time, the paper refers to selected findings as the most important for an introductory article on Croatian agencies.

countries in the 1980s and gradually spread all over the world (*see* Pollitt and Talbot, 2004), it has to be noted that delegation of public tasks to autonomous organisations is not a completely new practice. Already in the second half of the 19<sup>th</sup> century fast industrialization and economic development gave rise to ‘independent authorities’ in the US, Germany or the UK (*see* Christensen and Laegreid, 2005), while in some countries, for example in Scandinavia, the distinction between small, policy-making oriented ministries and a greater number of implementation agencies is a distinctive trait of the institutional landscape (*see* Bouckaert and Pollitt, 2004). Therefore, the novelty concerns the scope and the speed of agencification process in the last three decades.

The main drivers of agencification are found in two shifts in the paradigmatic approach to the state and public administration – the turn from the Weberian style to NPM public administration and the turn from welfare to regulatory type of state (*see* Majone, 1996; Moran, 2002). Both new concepts have their roots in the neoliberal doctrine and are further advanced by international organizations and globalisation. With regard to the regulatory state concept, it has been widely recognized that in the last three decades governments’ activities have moved in favour of privatization and liberalization of public service sectors, deregulation and simplification of economic environment, the processes often termed ‘the retreat of state’ (*see* Thatcher, 2002; Levi-Faur and Jordana, 2004). Instead of providing services and thus meeting societal demands, the state is expected to ensure adequate environment for economic development and social advancement. Thus, decentralized and fragmented regulatory governance has become the main way of governing society, using a whole range of different bodies, especially agencies or independent authorities, self-regulating bodies, etc., which set and enforce rules in various sectors of activity, (allegedly) insulated from political pressures (*see* Christensen and Laegreid, 2006; Jordana and Levi Faur 2004; Majone, 1996). Still, the increasing number of independent regulators, although perceived as being superior with regard to ensuring government’s credible commitment to certain policy (*see* Thatcher, 2002), has led to the problems of capture by private interest, increased number of institutional actors, and accentuated claims for stronger forms of control, greater transparency, more coordination and the introduction of measurable and explicit indicators of performance (*see* Moran, 2003; Thatcher, 2002).

Similarly, the new public management (NPM) supports agencification as the main response to inefficiency and weak accountability in public administration. Managerial reforms introduced first in New Zealand and

the UK, have spread all over the world, underpinned by the efforts of international organizations, such as the World Bank, the OECD or the EU (e.g. Döhler, 2007). The introduction of standards, procedures and structures from the private to the public sector, such as the 3Es, value for money, consumerism, result oriented service, and performance management, appeared as a new fashion which, as stated by Hood (2007: 13), turned NPM in a sort of a quasi religious movement. Although influencing all aspects of public sector, in structural and functional sense (see Koprčić and Marčetić, 2000), the administrative reforms happened to achieve different goals and different levels of change in various countries, facing different reform concepts, administrative traditions and implementation mechanisms (Pollitt, 2002: 476). The importance of the administrative tradition factor appears to be high in Central and Eastern European countries (CEECs), for example, where a special, one-size-fits-all type of reforms, promoted by international organizations and the EU after the fall of communism, produced similar negative effects. Thus, to introduce the managerial values into the political and administrative environment that is still struggling to implement basic democratic principles of legality, rule of law, accountability, transparency, openness, effectiveness and efficiency (as the principles of European administrative space) proved to be counterproductive.

Clearly, the concept of agency model is strongly linked to the NPM reforms. The idea was that effectiveness and efficiency might be achieved by delegating a specific task to a single agency separated from the core state administration but attached to it by effective accountability mechanisms in order to accomplish the public interest. In theory, it was believed that 'structural devolution and more managerial autonomy combined with performance management would improve performance and efficiency without having negative side effects on other values like control and democracy' (Christensen and Laegreid, 2007). Instead of the welfare state's public ownership, direct service delivery, social benefits and integrated policy making and operational functions, the NPM and regulatory state have turned to privatization, contracting-out, and separation of policy-making (in central ministerial departments) and operational functions (in decentralized agencies). The final effect of accentuated decentralization created the need for enhanced coordination as means to gather the shattered pieces of a 'fragmented state' (*ibid.*) and to 'join-up' the government (see Flinders, 2002).

In sum, both regulatory and administrative NPM reforms were conducive to the creation of agencies, introducing changes in the perception

of the role of administrative bodies – expertise and depoliticisation, decentralization and fragmentation, orientation towards performance and strengthening of *ex post* mechanisms of control (in addition to *ex ante* predominantly legal and political mechanisms) have developed as a new blueprint for public administration and functioning of the state, society and economy.

## 2.2. The Features of Agency Model

Different administrative traditions and constitutional and state structures, as well as the organisational and legal cultures determine the form and functioning of organizations in general – institutions do matter (March and Olsen, 1989). The agency type organisations are known by different names – quangos (see Greve *et al.*, 1999, Allix and Van Thiel, 2005), hybrids (Kickert, 2001), non-majoritarian bodies (Thatcher 2002), independent regulatory agencies (authorities; Gilardi 2002), executive agencies, semi-autonomous agencies or non-departmental public bodies (Pollitt *et al.*, 2004). The unclear definition and lack of coherent notion and classification of agencies is one of the main problems of comparative research of agencies, although some important volumes have been published (see OECD, 2002; Pollitt *et al.*, 2004; Verhoest *et al.*, 2010, 2012). Hence, the exclusion of other types of public sector organizations is often used to establish which organizations fall under the description of agencies – excluded are the ministries and their organizational units, state enterprises, voluntary (civil) sector organizations or private organizations performing certain functions in the public interest on the basis of contract with state (Pollitt *et al.*, 2004: 8).

Agencies are most often characterized as public bodies structurally disaggregated or even formally separated from the central ministry, which carry out public tasks at a national level on a permanent basis, are staffed by public servants and financed mainly by the state budget, and are subject to public law (Pollitt *et al.*, 2004; Pollitt and Talbot, 2004). Being at arm's length from ministries, they have a certain level of decision-making, organizational, financial and personnel autonomy. They perform a specific task (in comparison to multifunctional character of ministries), are staffed by experts, which gives them additional legitimacy, and their leadership is not directly elected (Christensen and Laegreid, 2005; Thatcher, 2002). Those traits might be extensively interpreted – for example, the separation from ministries does not necessarily imply legal independence, but can

mean only a functional separation; financing from the state budget does not exclude other sources of revenues and can lead to a wider or narrower financial autonomy; additionally, nonmajoritarian character and political independence does not automatically exclude political influences – after all, agency heads are often appointed by political bodies on the basis of their expertise.

The main role of an agency is implementation of public policies, which includes the whole range of public functions – from issuing regulations or other type of generally applicable rules, deciding on individual rights, keeping public registers, licensing, pricing, supervision, inspection, sanctioning, fund transfers, information gathering and diffusion, monitoring, etc. Bouckaert and Peters (2004: 38–43) make distinction between implementation, regulation, advice and policy development, information, research, tribunals and public enquiries, and representation. Christiansen and Laegreid (2005) use the term regulation, in the meaning of (1) goal formulation, rule-making, standard setting; (2) monitoring, information-gathering, scrutiny, inspection, audit, and evaluation; (3) enforcement, behaviour modification and the application of rewards and sanctions. Those tasks can be related to economic or social sphere (*see* Gilardi, 2005). The exact task portfolio (Pollitt *et al.*, 2004; Laegreid *et al.*, 2008) depends on the mission, goals and the role of agency in the policy implementation, as well as the additional tasks performed along with its primary task, which is a concept often used to define core function of the agency (for task portfolio *see* Laegreid *et al.*, 2008). Furthermore, depending on the functions and on the structure of an agency and its relation to the parent ministry, different agency models are recognized. For example, Bouckaert and Pollitt (2004) distinguish between three types of agency-ministry relations and, consequently, between more executive and more regulatory type of agencies.

Nevertheless, the main issue of agency design has been the problem of achieving the fine balance between autonomy and control (*see* Verhoest *et al.*, 2004; Verschuere *et al.*, 2006). On one hand, agencies should have independence from political and market interests which is based on their expertise, as well as on organisational, financial and personnel autonomy. On the other hand, agencies are expected to be under control in legal, financial and political terms, being accountable to the public and political bodies, in accordance with the principles of transparency, openness, and participation (*see* Geradin, 2005; Christensen and Laegreid, 2007a). Both the extensive control and the extreme autonomy might undermine the logic of the agency model leading to over-politicization or out-of-control

bodies, and eventually to ineffective implementation of public policy. In sum, finding the right balance between autonomy and control of an agency resembles the search for the holy grail of the agency model.

### 2.3. Agencification in CEE Countries

After half a century of the communist regime, CEE countries entered the parallel and interwoven processes of post-socialist transition and Europeanization of their economies and political systems, including public administration reform. The inherited socialist public administration was, at the same time, the layer on which new institutional forms were added (*see* Moynihan 2006, Pollitt and Talbot, 2004; Beblavy 2002, Tavits and Annuus, 2006). The intensive agencification in CEECs emerged in the 1990s and early 2000s (Randma-Liiv *et al.*, 2012), but the motives were different. As already stated by Pollitt (2004), the starting point for agency creation differs sharply from the political and economic context that have led to agencification in Western Europe and other democratic states, where the managerial approach developed as a reaction to the firmly rooted Weberian type of bureaucracy, while regulatory state was a phase that followed after the crisis of the welfare state. In contrast, both impulses were missing in CEECs' institutional history; hence, the agency model was applied in different environment. Although fragmentation and decentralization were features of communist states, with political supervision based on identification of the communist party with the state (for the 'communist autonomy paradox' *see* Beblavy, 2002), the agencies in their 'Western' meaning were not compatible with the inherited institutional context.

In contrast to Western Europe, agencification in CEECs is to a greater extent related to the expansion and restructuring of governmental functions than to the NPM reforms, without strategic approach (Randma-Liiv *et al.*, 2012). Agencies were 'taken for granted' as an adequate remedy for administrative weaknesses (low salaries, overregulated state administration, political patronage) and as an institutional model enforced by EU negotiations. The EU sectoral *acquis* was adopted on the fast track, together with recommendations to establish agencies. In the former case, the purpose of agency creation was usually not questioned, because 'Europe said so' and agency myth was spread as a legitimate institutional form. In sum, the institutional change with regard to the agency model in CEECs was related to institutional adjustments according to EU demands formulated in accession conditions.



The absence of a strategic approach to agencification as well as the lack of legal framework or adequate control mechanisms,<sup>3</sup> which would clear up the vision of future public administration and the agencies' role in it, opened space for tailoring the agency to the needs of the moment, with great diversity and unsolved problems of autonomy and control. The agency was not recognized as a new institutional model – in line with administrative tradition, legalistic, procedural accountability took precedence over output and result oriented control, disregarding the need for performance control. Therefore, agencies in CEE countries have been described as 'castles built on sand' (Pollitt 2004), with weak control mechanisms, weak autonomy and low transparency.

Recent research on agencification in CEECs shows that the scope of agencification, which is not completely new for CEECs, is greater than in Western Europe and that there is a preference for semi-autonomous type of agencies, without legal independence (*see* Van Thiel, 2011). However, although the scope and the pace of agencification differ in the East and West, the substance (deciding on the tasks) is much alike (*ibid.*). Nevertheless, among CEECs some differences may be observed (Randma-Liiv *et al.*, 2012) – between old and newly independent states, as well as between the 'democratizers' (new member states of 2004) and the laggards (e.g. Croatia). These are observed with regard to the strength of political control over agency appointments and with regard to the approach to administrative reform, with only minority of CEECs approaching the reform of agencies in a systematic way in contrast to the ad hoc agencification in other countries. However, like in other countries, the agencies in most CEECs have faced reorganization and reshuffling in the wake of financial crisis (*see* chapters on CEECs in Verhoest *et al.*, 2012; Randma-Liiv *et al.*, 2012).

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<sup>3</sup> For example, laws regulating public agencies were enacted in Latvia (2001), Slovenia (2002) and in Serbia (2006).

### 3. Theoretical Explanations of Agency Design and Europeanization

#### 3.1. Autonomy and Control of Agencies

Although *autonomy* is generally accepted as a necessary characteristic of the agency model, it is differently conceptualised in various studies. For example, Bouckaert and Peters (2004) distinguish between legal, managerial and financial autonomy; Laegreid *et al.* (2008) differentiate between personnel, financial and policy (strategic and operational) autonomy; Gilardi (2005) develops five-factor index of formal independence of regulatory agencies; the conceptualisation by Verhoest *et al.* (2004) includes six dimensions, with managerial and policy autonomy relating to freedom in decision-making, and the structural, financial, legal and intervention autonomy as exemption from restrictions. A recent study by Verhoest *et al.* (2010) focuses on the aspect of autonomy related to decision-making e.g. 'discretion, or the extent to which an agency can decide itself about matters that it considers important' (*ibid.*: 18-19). In essence, the distinction is made between the managerial autonomy which assumes the discretion in decision-making about the inputs, such as personnel, financial management or organisation, and policy autonomy, related to the agency outputs, with regard to procedures, policy instruments, target groups and policy outcomes.

Similarly, there are different conceptualisations of the concept of *control* (*see* Romzek and Ingraham, 2000; Peters, 2001). In essence, control relates to the mechanisms and instruments used by the controlling actor to influence decisions of the controlled actor. It can be vertical, horizontal or diagonal (Verschuere *et al.*, 2006, Bovens, 2007). The time dimension includes *ex ante* (legal procedures, structuring of agencies, financing, etc) and *ex post* instruments of control (reporting, judicial control, performance control), but also *ex nunc* instruments of simultaneous or parallel control, often related to political interventions and monitoring (Mulgan, 2003). Moreover, the concepts of accountability and responsibility add to the different aspects to the control concept. Control is often conceptualised as the accountability of the agency to the principals, comprised of legal control, financial control, political-democratic control, as well as of performance control.

### 3.2. The Concept of Europeanization

The concept of Europeanization is closely related to the new institutional theory. It is a kind of new institutionalism through European lens, concerned primarily (but not exclusively) with the impact of the EU on the national state (member states and candidate countries) trying to determine the character of change, or, in other words, whether the EU impact is homogenizing or not. The independent variable relates to the EU's practices, ideas, norms, culture or rules (institutions), and what is measured is their effect on national states' institutions (polity), public policy (policy) and political process (politics).

The expansion of Europeanization related research develops parallel with the progress of new institutionalism – the complexity of European political realm is suitable for explanations and concepts of sociological institutionalism such as learning and socialization of elites, diffusion, organizational fields, or isomorphism (Meyer and Rowan, 1977; Powell and diMaggio, 1991), as well as rational-choice institutionalism concerns about the principal-agent relations, the collective good, or calculative behaviour of actors within European arena. However, the historical institutionalism accounts on the institutional inertia, the resistance to change and the influence of state and political traditions that result in path-dependent institutional developments constitute one of the most visible areas of the research on Europeanization of the political institutions. The overall conclusion of Europeanization related research is that the EU pressures rarely lead to convergent change, and that the intensity of change varies, often depending on the character of the mechanism of change, as well as on the incompatibility with the prescribed EU model (Börzel, 2005). The change is possible even without the EU model, and without coercion, but by imitation or competitive selection of the institutional model.

In relation to the executive and public administration as objects of Europeanization related research, the literature shows that national polities are witnessing the change in balance of power from parliaments to executives, and raises the issues of administrative capacity (especially in terms of HRM, coordination, accountability, efficiency and performance) in order to secure effectiveness of the European project and to decrease the democratic deficit (*see* Graziano and Vink, 2007). In sum, the impact of the EU on national polities is not the one of harmonization or convergence (although they could be found as well), but mostly 'complex and far reaching' (Kassim, 2005: 286–287), differential (Héritier, 2005) or clustered convergence (Goetz, 2005), due to the contextual factors at the

European level and national states' political and administrative traditions, policy styles, public opinion and political elites (Goetz, 2005: 286).

The impact of the EU on the candidate countries in Central and Eastern Europe constitutes a special part of the research (*see* Goetz, 2005; Schimmelfennig, 2007). Europeanization in these countries proceeded as a part of the 'back to Europe' movement, by strengthening the institutional ties with the EU (association agreements, candidate status, negotiations, membership) and simultaneous promotion of European practices, institutions and values in the form of democratization, economic development and institutional change (*see* Schimmelfennig and Sedelemeier, 2006). The process of the EU-induced institutional change is influenced by two factors: on one hand, the starting position of CEE countries is determined by social, political and economic inheritance of communism and parallel processes of democratic transition and economic transformation. On the other hand, Europeanization is firmly connected to the accession negotiations based on the politics of conditionality and the asymmetry of power between the EU and the candidate country – the pressure to adopt the *acquis* (which was created without participation of these candidate states) without 'ifs and buts' (Heritier, 2005: 203-205; Sedelmeier, 2006: 19; Grabbe 2003). Thus, the candidate state is a recipient, a downloader of European policies and practices that have to be met in a very short time.

The frequently cited volume edited by Schimmelfennig and Sedelemeier (2005) presents three mechanisms of Europeanization in CEECs, depending on the source of change (EU or domestic level) and the contrasting logics of consequence or logic of appropriateness. Therefore, the institutional change can appear (a) in the form of *external incentives model*, based on the logic of consequence, when sanctions and rewards are affecting cost-benefit calculations of candidate countries. The carrot and stick model achieves greater explanatory power with the increase of net-benefits of accession and with credibility of the EU. It is based on the conditionality principle – the advancement in the accession process depends on the speed and pace of institutional adjustments and reforms conducted by the prospective member. Then, (b) in the *social learning model*, the change is induced by the learning process – the legitimacy of EU norms and identification with the EU is a factor for adaptation. This process is developed through intergovernmental interactions (negotiations, persuasion) or through transnational processes that gather societal actors (interest groups, regional authorities). Finally, (c) in the *lesson-drawing model*, the change is explained by national level causes – dissatisfied with domes-

tic status quo, the states adopt the EU rules if they are perceived as a solution to their domestic problems, according to the logic of consequence, or their appropriateness for institutional adjustment. The prevailing mode of institutional change in CEECs is explained by external incentive model, in other words, by 'reinforcement by reward'.

The impact of Europeanization on the CEE candidate countries has been found to be more convergent in comparison to the 'old' members, although still differential. In addition, the impact is more superficial and peripheral, because the accession conditions are met formally, and are not followed by significant transformations in collective meanings. Hence, the institutional change induced by the EU in CEE countries is described as 'shallow Europeanization' (Goetz, 2005; Schimmelfennig and Sedelmeier, 2005, 2006; Grabbe 2003) or Europeanization of 'eastern type' (Héritier, 2005), having a greater potential for reversibility (Goetz, 2005).

Finally, when discussing the connection between the European Union and agency model, it is worth mentioning that the EU itself is perceived as the generator of agencification process. The institutional architecture of the EU and its character of the regulatory state (Majone, 1996; Jordana and Sancho, 2004) enhance the creation of European agencies, as well as their counterparts in the member states. Moreover, the networks of EU and national agencies are formed in order to ensure effective implementation of EU policies. Hence, the negotiations chapters include formation of agency-type organisation. Although more than 35 European agencies differ according to the scope of their functions as well as the elements of structure, the European agency has been recognized as a distinctive model, at least with regard to its limited regulatory power (*see* Barbieri and Ongaro, 2008).

## 4. Agencification in Croatia

### 4.1. Political and Administrative Context of Agencification in Croatia 1990–2010

The development of the Croatian political and administrative system from the beginning of the 1990s can roughly be divided into two eras, with two critical junctures.<sup>4</sup> The first critical juncture emerged in 1990 with the end

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<sup>4</sup> Public administration (state administration, local self-government, public services) went through the phases of establishment (1990–1993), consolidation (1993–2001)

of the communist regime (as in other countries of the former Yugoslavia, it was described as a 'softer' version compared to the Soviet bloc countries) and the beginning of post-socialist transition period, which coincided with the war for independence (1991–1992, with reintegration of the occupied territories in 1995 and 1998). Hence, the 1990s were characterized by temporary loss of significant parts of the territory as well as by great social and economic problems of war and post-war period (refugees, economic downturn, social problems, etc.).

The 'existential' problems of the state during the 1990s reflected in the features of the political system. The 1990 Constitution introduced the semi-presidential system, with great competences of the (directly elected) president in the areas of defence and foreign affairs, and with regard to the political and administrative system, especially relating to the political appointments to the central government and to local and regional governments, similar to the French model. The predominance of the right-wing party in the parliamentary and presidential elections manifested itself in retarded democratisation (especially in terms of human rights and minority protection) followed by a problematic economic transition and privatisation, and a high level of corruption. In these circumstances, the public administration reform, which would lead to progress in the social and economic sphere, was not a priority. The state administration underwent significant and frequent reshuffling, without any obvious direction, partly caused by the necessity to create organizations of independent country. As described by Koprić (2009: 10) the public administration of the 1990s 'developed in the conditions of etatisation, centralization, and politicization of an authoritarian type ... [...] with] an insufficient level of professionalism of administrative personnel and politicization of administrative services ... [...] The lack of co-ordination was compensated for by arbitrary, ad hoc political interventions. Political-administrative system was closed and bureaucratized, imbued with the climate of secrecy'. The number of administrative organisations, including local administrations and public services, as well as the number of employees has steadily grown with professionalism sharply decreasing. At the turn of the century, Croatia was faced with an enormous and inexpensive public administration with questionable efforts in terms of transparency or efficiency. Thus, public administration served other purposes than creating and implementing public policies.

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and Europeanization (after 2001), with prospects for modernisation after 2008 (Koprić, 2009a).

The second critical juncture emerged in 2000, when the parliamentary and presidential elections brought to power the centre-left coalition, which created a new direction in the political and administrative development in terms of devotion to democratization, economic development and membership in the EU and NATO as strategic goals, including the cooperation with the Hague War Crimes Tribunal, which was regarded as politically highly sensitive issue. The Constitutional changes in November 2000 and April 2001 introduced a parliamentary system, re-established the genuine self-government system within a decentralisation policy by setting a clear demarcation line between the state and local (and regional) self-government, and imposed high human rights and minority protection standards. Reorientation towards the EU and NATO was backed up by foreign help in reforming institutions and creating favourable economic environment. These changes had an impact on public administration, although slowly and sporadically, without a strategic approach, both during the left-centre government (2000–2003), which laid the foundation for subsequent administrative modernisation, and during the later right-centre governments (2003–2007, 2007–2009, 2009–2011), which more vigorously introduced several NPM-inspired but actually EU-driven reform activities. Still, the systematic public administration reform was not a priority of the 2000s governments, which may be illustrated by the fact that the State Administration Reform Strategy 2008–2011 was adopted only in 2008 and its implementation was not effective. The reform of other administrative systems (local self-government, public services) was not on the agenda either, apart from the institutional and legal adaptations to the EU *acquis* in the respective sectors.

In comparison to the majority of CEE countries, Croatia was a laggard in the EU accession process, due to the resistance to follow through democratization that did not suit the political elite in the 1990s. The story of institutional ties with the EU, similar to other CEEs, started with the Stabilisation and Association Agreement (SAA), a bilateral document which confirms potential candidate status and sets out the mechanisms for cooperation. The SAA was signed in October 2001 and entered into force on 1 February 2005, a decade after the democratic front-runners (e.g. Poland or Hungary), and in different circumstances and a less enthusiastic context. In February 2003, Croatia applied for EU membership, and was granted candidate status in June 2004. The negotiations started in October 2005. The screening phase took place between October 2005 and October 2006, when first negotiation chapters were opened. The negotiation process (2005–2011) went through a crisis from the end of 2008

to the end of 2009, when eleven chapters were blocked by Slovenia over bilateral disputes and by some other EU members. The negotiations were concluded in June 2011, and six months later the EU Accession Agreement was signed. Finally, Croatia joined the EU on 1 July 2013, but was closely monitored during ratification period with regard to several open issues that were not resolved during the accession (the implementation of the conflict of interest and access to public information legislation being some of them).

Clearly, the start of Europeanization phase coincides with the year when SAA was signed (2001), but intensive institutional adjustments began intensively after 2005 with the fulfilment of EU membership conditions set out in the negotiation chapters. During the phase of Europeanization, several important steps were undertaken within the framework of the EU-funded projects with the aim of creating modern administration adjusted to EU standards of good governance and European administrative space. Although among the 35 chapters of the EU acquis public administration reform was not formally determined as a prerequisite for the membership, the capacity of public administration was monitored as part of reaching the political criteria. Hence, besides sectoral adjustments within respective chapters (e.g. agriculture, energy, etc.), several important administrative reform activities were in place – the civil service legislation and civil service training, modernization of administrative procedure and administrative justice system, access to public information, regionalization, regulatory reform (simplification, regulatory impact assessment), anti-corruption measures (ethical standards, conflict of interest, protection of whistle-blowers, etc.). However, the EU Progress Reports were continuously underlining the incompleteness of the legal basis for modern and professional public administration, as well as the weakness of reform management, warning of the need for facing up the challenge of administrative reform in the following period, and of the necessity of political commitment and sustained efforts in implementation of the reform. The reluctance to adopt and implement a comprehensive modernisation strategy outside the EU accession activities shows that inertia and stickiness of institutions is well known in the Croatian institutional development, as is the need for external reform incentives.

Finally, the economic crisis that emerged in 2009 set a new challenge for public administration reform. Croatia's economic downturn is only partly related to the worldwide economic crisis and follows mainly from structural and functional insufficiency of domestic economy, which is to a great extent related to the hesitance of governments to conduct reforms



in the public sector, such as privatization, a comprehensive state administration and local self-government reform, as well as fighting corruption in all spheres of society, from the judiciary to public administration to public services. Negative public opinion expressed by the media is, among other things, directed primarily at numerous public bodies (referring to them as 'agencies', a sort of a nasty word in the Croatian media) and secondly, at local self-government with its 550 units. Public services, agencies and local governments are perceived as the main consumers of public money and as insufficiently accountable and ineffective generators of general dissatisfaction with the political elites and the state. In general, the state and its past and present elites are being called to account for not being able to solve increasing social and economic problems, and even for making them worse by not conducting the necessary reforms. There has been a claim for more control over public spending and for effective and high quality public service. Continuing the efforts of the previous 2009–2011 Government, which implemented its Economic Recovery Programme, the new left-wing coalition Government, which came into power at the end of 2011, has started to tackle some of the key issues of the Croatian public sector, since the public spending is well beyond the capacities of the economy to generate the income. Consequently, after the achievement of the EU membership, which was the main political goal in the 2000s and the 'measure of all things', public administration reform may become a political priority for the achievement of economic and social stability in the future.

## 4.2. The Research Framework and Methodology

The issue of agencies started to emerge as one of the important questions of the Croatian public sector in the past decade, parallel to the acceleration of the agencification process. In addition to the inherited fragmented public sector, there was a proliferation of more or less independent organisations in different functional areas whit regulatory, executive, service, supervisory, and monitoring or policy-related tasks. However, the systemic approach to the agency problem in Croatian academic literature was missing, and agencies were observed mainly through the context of the general change in public administration (Koprić, 2009a, 2008), as a side effect of the constitutional and political development (Smerdel, 2006), or with the focus on individual agencies, mostly independent regulatory authorities. The literature accentuated two most visible problems – first,

agencies as a new institutional form, allegedly unfamiliar to the Croatian political and administrative context, which had to be described and explained. Second, the problem of political control and other control mechanisms over agencies was frequently raised.

This paper presents partial findings of the research on agencies in Croatia conducted in 2009.<sup>5</sup> Firstly, the findings deal with the definition of agency traits that serves as a tool for identifying agency-type organisations as a relatively homogenous organisational form within the public sector organisational landscape. Secondly, the agencification process in Croatia is analysed by presenting findings on the agency features, as well as the relation of agencification to the process of Europeanization. The issues of institutional design in terms of autonomy and control of agencies in relation to their structural and functional features are analysed, followed by a discussion of the process of institutionalisation of the new organisational model, with particular reference to the role of the EU as a factor of institutional change.

For the purpose of this research, the EU impact on agencification process is conceptualised in terms of formal obligation of the candidate country to introduce agencies in order to fulfil conditions stated in negotiation chapters. The logic of consequence, in this case conditionality, works as a determining factor of the candidate country's institutional change. The EU impact is determined by analysing national negotiation programmes that envisaged the formation of agencies.

In order to collect the data for determining which organisations fulfil the agency criteria and to identify their basic features regarding establishment, structure and function, an Internet research was conducted using web pages of the Croatian official journal (*Narodne novine*). The Government's official document List of the Public Bodies of the Republic of Croatia for the years 2005–2009 was used as a starting point, as well as the official Internet portal Mojauprava.hr, the State Budget of the Republic of Croatia for the years 2008 and 2009, the official web pages of organisations and institutions (Government, Parliament, Croatian Information-Documentation Referral Agency, State Statistical Bureau, State Audit Office, Ministry of Administration). A legal analysis of the relevant

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<sup>5</sup> For the results of the second part of the research, based on the questionnaire comprised of detailed questions relating to agency structure and functioning as well as the EU impact, see Musa (2013).

legal sources was conducted, as well as the analysis of documents indicating the agencies' relevance for the EU accession.

### 4.3. Findings

#### 4.3.1. *The Agency among Public Sector Organisations in Croatia*

To define and identify organizations that according to their structural and functional traits correspond to the definition of an agency is not an easy task, as it has been shown in many studies (*see* Pollitt and Talbot, 2004; Christensen and Laegreid, 2006). This is especially visible within a political and administrative system consisting of different layers of public sector organizations that have emerged at different points of time due to various incentives.<sup>6</sup> The definition of an agency suffers from ambiguity and depends on factors such as type of research, country studied, and theoretical framework. Very often, the agency denominates all types of more or less independent public law organisations that perform different public tasks, from regulation, to service provision or implementation of public policy.

In this study, the problem is tackled by defining the agency traits which allow the demarcation of agencies from other public sector organisations (PSO). Drawing on the public sector organization (PSO) categorizations, such as *the quango continuum* (*see* Greve et al., 1999; Allix and Van Thiel, 2005) and other classifications (Döhler, 2007; Bach et al., 2005; Hardiman and Scott, 2007), particularly the one devised by Van Thiel & the CRIPO team (2009; *see also* Musa and Koprić, 2011: 35–38; Koprić and Musa, 2012), the study defines other PSO types that are *not* agencies. Thus, in order to clearly grasp the features of the agency and to identify a relatively homogenous group of organisations that fulfil the agency criteria, this study will first define the characteristics of agencies in Croatia, based on a thorough examination of their legal framework, and then exclude other types of public organizations.

Agencies at the national level in Croatia are bodies that have special features regarding their status, legal instrument, their goal and tasks, the

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<sup>6</sup> Agencies emerged in Croatia in the 19<sup>th</sup> century or in the first half of the 20<sup>th</sup> century, such as Chamber of Commerce (1857), Hydrographical Institute (1860) or Employment Service (1906). During the socialist period, various types of agency-like organisations performed public tasks (*see* Musa and Koprić, 2011: 40–41).

degree of specialisation, the level of action and autonomy and control. Drawing on the definitions of Pollitt *et al.* (2004), Pollitt and Talbot (2004), Christiansen and Laegreid (2005) and others, but adjusting them to the Croatian political and administrative context, it is possible to determine the following features of agencies in Croatia:

1. Agencies are legal entities of public law – legally independent (with legal personality), structurally disaggregated from the core government (ministry), thus excluding organisations within state administration system with limited autonomy regarding personnel, financing or even decision-making because they are subjected to the general state administration legal framework in these aspects;
2. Agencies are established by the special or sectoral laws adopted by the Parliament, or by the Government regulation. This criterion helps to demarcate agencies in relation to, for example, most of the public establishments or public enterprises, but also from the Central Bank, which has constitutional basis;
3. Agencies function in a specific policy area or have a specific purpose. This is generally accepted as one of the basic agency features, in comparison to multifunctional ministries;
4. Agencies carry out tasks at the national level. This criterion leads to exclusion of a large number of regional or local agencies;
5. Their functions include regulation of a specific sector, executing or monitoring execution of public policies, or conducting (executing) a specific programme. This broad functional criterion allows the inclusion of various agency types;
6. The tasks of agencies consist of issuing regulations or general rules, establishing standards, monitoring public policies, collecting data, issuing decisions and other types of administrative acts (licensing, certificates, etc.), exercising oversight and sanctioning authority, executing and financing programmes. This trait excludes public service providers, such as public enterprises (gas, electricity, etc.) or universities;
7. Agencies have a certain degree of managerial autonomy with regard to organisation, personnel and financing, and a certain level of decision-making (legal or policy autonomy). Managerial autonomy relates to the exemption of agencies from the regulations regarding civil service personnel or even public servants legislation, and as well as from the internal organisation regulations. They are almost without exception independent with regard to decision-making in individual cases or even in rule-making (although subject to judicial review);

8. Agencies are subject to control of the central Government, the courts and the Parliament in legal, financial and political terms. The control includes the judicial review of decisions, the state audit control or other types of financial management auditing, political answerability to the Parliament or Government by issuing annual reports, and, in some cases, political appointments of the members of agency management.

Those traits serve as demarcation features between agencies and other type of organisations in the public sector. Namely, PSO can be differentiated according to features such as financing mechanisms, political responsibility of the minister, control mechanisms, type of task (public or private) and performance in the public domain (Greve *et al.*, 1999). They differ according to their distance from the principal – the formalized political power thus forming a ‘chain of agents’ (see Table 1), consisting of various types of organizations that perform public tasks. In other words, they are ‘public agents’ granted with that status directly by the principal (the parliament) or indirectly by its agent – the government. A basic feature of this categorization is that the organisation may change its position in the chain (continuum) by changing its legal status (so-called *quango* drift). Therefore, it is possible to distinguish the following agents:

1. *Organisations and organisational units within hierarchy of state government and central state administration* – offices and services of the Government, subjected to the legal framework of state administration. Those organisations have low autonomy regarding personnel, financing and internal organisation. They are a part of the hierarchical government-administration structure, headed by elected politicians. Simultaneously, political, financial and legal control is tight. This type corresponds to the semi-autonomous type 1 agencies (see Van Thiel & the CRIPO team, 2009);
2. *Legal persons with public tasks sui generis* – independent regulatory authorities (agencies), established by the law (Parliament) in order to regulate a specific sector. The general state administration legal framework regarding personnel and organisation does not apply, while control regarding decisions, financial management or political control (reduced to annual reporting or few political appointments) is generally weaker than in other types of PSO;
3. *Public institutions* – PSO founded according to the Law on Institutions, which defines the functions and the structure of the organisation, as well as the control mechanisms (appeal, oversight and abolition, etc.). Their employees are public servants; they are designed as organisational models for the provision of so-called non-economic public services,

such as health, education, sports or culture. It is possible to differentiate between two types of organisations legally defined as public institutions:

- a. Public institutions for implementation of public policies; together with legal persons with public tasks this group constitutes what Van Thiel and CRIPO Team (2009) define as type 2 agencies.
  - b. Public institutions for providing public services (universities, institutes, health institutions, national television);<sup>7</sup>
4. *Voluntary (civil) sector* – organisations based on membership (chambers, associations) or assets (funds). They have to be registered by the relevant body (Ministry of Administration). Different types of voluntary sector organisations perform public tasks include economic or professional chambers (see Musa and Džinić, 2012), associations exercising some kind of public authority (e.g. Croatian Olympic Committee, which defines sports nomenclature), and foundations, as specialised organisations for financing certain activities (education, social welfare etc.)
  5. *Public enterprises* – enterprises in partial or total state ownership involved in commercial activities, regulated by the Law on Corporations. There are currently more than 20 public enterprises (in the traffic sector, telecommunications, natural resources and finance) and approximately 65 other enterprises still in partial ownership of the state;
  6. *Private providers of services* (contracting-out) – numerous private sector organisations in contractual relationship with the state for provision of certain services.

In addition to the above differentiation, there are certain types of agency-like organisations, as 'borderline cases, which do not completely fulfil the defined agency model', such as the *Croatian National Bank*, which has outgrown the regular principal-agent relations and has ceased to be a part of administrative apparatus (see Marcussen, 2006); *agencies in the area of national security*, which do not compel to regular autonomy-control balance, with significant political influence and transparency issue; *collegiate bodies* (councils, boards, committees),<sup>8</sup> which participate in policy formulation but do not have a firm organisational basis; and numerous *agencies at subnational level*

<sup>7</sup> Public institutions fall into the category of more autonomous bodies (MABs), since there is no principal-agent relation in a strict sense (see Pollitt *et al.*, 2004).

<sup>8</sup> The former regulatory councils have often been transformed into agencies, which should be considered quango drift (e.g. for the media, for civil aviation, telecommunications; see Flinders, 2006; Christensen and Yesilkagit, 2006).

Table 1: Chain of Agents in Croatia generic form	Organisational forms within state administration / government system (without legal personality)				Legal persons with public authority				
	Government offices and services	Administrative organisations within ministries	Administrative organisations within state administration	Legal persons with public authority sui generis	Public institutions	Voluntary sector	Enterprises (public and other)	Contracting out	
Domain	public law	public law	public law	public law	public law	public law	private law	private law	
Legal foundation	Law on Government	Law on the State Administration System	Law on State Administration	Constitution arts. 116/2 and 89	Law on Institutions	Law on Associations, Law on Foundations, Law on Institutions	Law on Corporations	Law on Corporations	
Founding instrument	Law on Government / Regulation / Decision	Special Law	Law on Establishment and Functions of Central State Administration Bodies / Special Law	special or polity sector law	law, regulation, other act	law, declaration, founding act	declaration	contract	
Forms	office, service, commission council	administrative organisations within ministry	state administrative organisation, central state office	legal person with public authority (agency, fund)	public institution (agencies, centres, institutes, funds, chambers)	chamber, association (union, community, society), foundation	joint stock company, limited liability company, other (state owned)	joint stock company, limited liability company, other	
Public task	yes	yes	yes	yes	yes	yes	yes / no	no, except for authorised tasks	

CROATIAN AND COMPARATIVE PUBLIC ADMINISTRATION

	yes	yes	yes	indirect	yes	no	yes / no	yes, for contract
Ministerial responsibility								
Control mechanism	direct political control	direct political control	legality control / judicial control	legality control / judicial control	legality control / judicial control	legality control	property rights (market)	contract / legality control
Statute	no	no	yes	yes	yes	yes	Statute / Contract / Declaration	Statute / Contract / Declaration
Financial resources	state budget	state budget	state budget / own revenues	state budget / own revenues	state budget / own revenues	own revenues / state subventions	own revenues	own revenues / defined by contract
Example	Office for Gender Equality	Tax Administration	State Statistical Bureau	Croatian Competition Agency	Agency for Agricultural Land, public institutions for national parks management, universities	National Science Foundation, Croatian Tourist Office, Croatian Economy Chamber	Croatian Highways, Croatian Forests	n/a

Source: Author's data



If compared with the links in the chain of agents and with the borderline cases according to previously defined traits, agencies represent a special type of organisations. As shown in Table 2, the characteristics of agencies are only partially present in other types of public organisations.

Table 2: Comparison of Public Sector Organisations in Croatia

Features of agency model in Croatia	Agency	Central Bank	Subnational agencies	Councils	Central state administration units	Public institutions	Voluntary sector	Public enterprises
Legal personality	+	+	+	-	-	+	+	+
Public law	+	+	+	+	+	+	+/-	-
Legal instrument – law or regulation	+	-	-	+/-	+	-/+	+/-	-
Tasks: regulation, executive tasks, policy support	+	+	+	+	+	-	-	-
Specialization	+	+	+	+	– (ministries)/ + (some)	+	+	+
National level	+	+	-	+	+	+/-	+/-	+/-
State budget financing predominant	+	+	-	+	+	+/-	-/+	-/+
Autonomy level	high	high	high	low	low	high	high	high
Control level	medium / high	low	medium	medium / high	high	low	low	low

Source: Author's data

#### 4.3.2. Features of Agencification in Croatia

*Formal features of agencies.* All agencies fulfil the criteria of legal personality, which adds to their autonomy level. They are established as agencies (39), institutes (15) and research institutes (2), funds (7), centres (7), registers (2), services (1) and others (2), showing a great diversity of func-

tions. Still, the distinction is inconsistent because it is possible to find different structural and functional types under the same type. However, agencies mostly perform regulatory and/or executive functions; institutes are engaged in policy development or monitoring, and centres focus on the provision of services to distinctive groups of users (e.g. farmers).

Agencies' *legal status* mirrors the unorganised legal framework of public sector organisations. Although most of the agencies are founded as public institutions and thus have to fulfil the legal conditions regarding structure, functioning and oversight prescribed by the 1993 Law on Institutions (56 or 75% of agencies), there is a significant number of agencies (10 or 13%) that are founded under the generic term 'legal person with public authority' with additional 9 or 12% of other agencies that are legally defined as 'legal person'. Bearing in mind that the legal category of 'legal person' or 'legal person with public authority' refers to all public sectors organisations, the conclusion is that 25% of agencies are established under the generic legal term, without relevant legal framework. This legal mess has opened space to the founder to structure an agency disregarding horizontal laws on financing, personnel or legal control of agencies. At the same time, no firm legal ground has been given to agency formation and design. Thus, instead of defining a new legal form (the agency), or at least setting the criteria for founding and designing a new type of organisation elsewhere (strategy, guidelines, or similar), the founder (the Parliament / the Government) has taken advantage of the undefined and general legal form in order to have as much freedom as possible to design agencies according to the needs of the moment and specific cases, including political constellations. However, the necessity to develop legally clear foundation when it comes to agency structure, functions, responsibilities and control has grown more visible with the increase of the number of agencies, and has recently been recognized by the actors in charge (Ministry of Administration; the Government), as well as by the general public and media that perceive numerous agencies as an important generator of public debt which is left uncontrolled.

The founders of agencies are the Government or Parliament – agencies at the national level are established either by law, a legislative act of the Croatian Parliament, or by a Government's regulation. The Parliament establishes an agency either by law regulating certain policy area (e.g. railway traffic; 31 agencies or 41%) or by a special law related to the agency exclusively (16 agencies or 21%). Government's regulation as an agency-founding instrument can be based on the specified authorisation of the sectoral law (12 agencies or 16%) or on the application of general authorisation in the Law on Institutions that allows the Government to establish agency-type

organisation in order to implement or define its policy (16 or 21%). This differentiation is important because the type of legal instrument affects the agency's autonomy and control – the higher the legal instrument or its legal foundation, the wider the autonomy granted to an agency, and vice versa. In other words, abolition of an agency or change of agency design (tasks, structure) is more probable if the decision is solely in Government's hands, bypassing the complicated legislative procedure and ignoring the will of the legislature. In that case, the agency will be more prone to Government's (changeable) preferences and political considerations. Still, the founder of the agency is also its supervisor. Agencies founded by the Government are accountable to the Government only, while those founded by the Parliament are responsible to it and, in most cases, also to the Government. This uneven relationship may lead to different character and intensity of control mechanisms, leaving agencies open to more or less (in)effective control. In regulatory agencies, the emphasis is on *ex ante* mechanisms of control (legal framework, procedure, professionalism), while *ex post* mechanisms are weaker, restricted mainly to the submission of annual reports to the principal and judicial control of decisions. Consequently, the question arises whether some agencies are gaining significant autonomy without adequate control, acting as satellites kept in the planet's orbit by some other tools than those that are visible and formal.

*The agency in time and impact of the EU.* The moment of agency creation is an important factor in determining variables that have influenced the decision to create it, especially whether there has been an EU incentive to 'agencify'. In this research, the year of adoption of the founding instrument is used as a relevant indicator of agency age, starting from the present form of the agency (important if there was a change in organisational form). The decisive moment is the fact whether the agency represents the same organisation in uninterrupted time continuum, regardless of possible changes in tasks or structural elements.

According to important steps in the Croatian administrative development discussed in the previous chapter, it is possible to distinguish four intervals (see Table 3). The first interval includes agencies established before 1990 and inherited from the previous system (9 agencies or 12%), while the second is made of agencies founded at the time of post-socialist transition 1990–1999 (13 or 17%). The remaining two intervals include agencies established after 2000. More than two thirds of all agencies (53 or 71%) were created in the 2000–2009 period, and the data indicate that such an intensive agencification (43% of all agencies established from 2005) sped up parallel with the EU negotiations process and the need for institutional adjustments.

Table 3: Agencies by Time of Formation

Time frame	F	%	Agencies by time of formation	F	%
1990–2000	22	29	inherited agencies (before 1990)	9	12
			transition period agencies (1991–1999)	13	17
2000–2009	53	71	Europeanization I agencies (2000–2004)	21	28
			Europeanization II agencies (2005–2009)	32	43
Total	75	100	Total	75	100

Source: Author's data

One may use legal obligation of the state towards the EU to establish agencies or to reorganize an existing administration into the agency as a more accurate indicator of European pressures to create agencies. This can be done by analysing the content of the National Programme for the Accession of the Republic of Croatia into the European Union (NPEU). This is an annual plan adopted each year (starting in 2003) by the Croatian Government that contained a detailed plan of measures and actions that had to be undertaken in order to fulfil the conditions defined in negotiation chapters (or, in the earlier phase, by SAA). Consequently, seven programmes for the years 2003–2009 were analysed as indicators of the EU impact on agency creation. In order to make necessary adjustments to the EU environment, the NPEU provided for (a) the creation of agencies or (b) the strengthening of existing agencies by introducing new tasks, enhancing administrative capacities, or by making structural changes. The third possibility was that (c) the agency was not a subject of the Programme. The rationale of agencification during the accession process concerned mostly the reasons of ensuring decision-making isolated from political and other pressures (regulatory agencies) or the reasons of effectiveness (executive agencies, especially those engaged in distribution of funds or those dealing with issues connected to one of four EU freedoms).

As Table 4 shows, more than 56% of agencies (52) were a matter of preparatory activities for the EU accession. Out of this number, 26 agencies had to be created in order to satisfy the accession criteria, while 16 agencies were mentioned in the context of strengthening their administrative capacities, broadening the scope of activities or changing their internal structure. Thus, two thirds of agencies were established under the influ-

ence of EU accession. The fact that the creation of agencies is a formal obligation of the candidate country in order to fulfil the EU accession criteria indicates the logic of consequence in institutionalisation of the agency model. Moreover, the type of Europeanization is the one of conditionality or ‘reinforcement by reward’ because the closing of negotiation chapters and moving towards the desired goal, together with financial resources, depends on the fulfilment of obligations. Still, this does not say anything about agency design being induced by EU pressures, nor explains if the EU pressure is conducive to certain structural or functional characteristics.

Table 4: Agencies as Subject of National Programme for the EU Accession

Agency in the NPEU	F	%
Creation of agencies demanded by the NPEU	26	35
Strengthening of existing agencies demanded by the NPEU	16	21
Agency not subject of the NPEU	33	44
Total	75	100

Source: Author

*The formation of agencies.* The issue of institutional change can be observed by analysing the ways agencies are formed, especially with regard to the possible situations of ‘quango drift’. Previous organisational form indicates the character of agencification and direction of change – whether towards greater atomisation or/and greater or lesser politicization (see Schick, 2008). There are three main forms of organisational change: (a) agencies can be established *ab ovo*, undertaking (almost) completely new tasks; (b) functional disaggregation or decentralisation – an agency might emerge as a result of the separation of organisational unit from the ministry or elsewhere; (c) reorganisation or merging happens when previously existing organisations are reorganised or merged into a new type of organisation or merged into a new organisation (of same or different type). The types of change have implications on autonomy and control because different legal status reflects on the structure and functions of the organisation.

The data based on the analysis of transitory provisions of agencies’ founding instruments (see Table 5) show that the predominant type of organisational change is pure agencification, which means choosing agency model over other types of administrative organisations when new public tasks have to

be accomplished (29 cases or 39%). Moreover, 80% of them emerged in the Europeanization phase, which indicates that EU impact is connected with agencification. Decentralisation was found in 19 (25%) cases, relating to the separation of an agency from the ministry (13) or state administration organisation (13). These changes are cases of decentralisation and depoliticisation, since an organisational unit leaves a hierarchical, ministerial administration and continues to perform its tasks with greater autonomy (legal personality, exemption from legal framework for public administration). Agencification by organisational transformation, whose purpose is the strengthening of administrative capacity, appears in 21 case (28%), out of which 4 agencies were formed by merger, while others were created by transformation from a public institution, public enterprise, or by transformation of the council into an agency (*quango drift*). In sum, the data show that the change in organisational type intensified in the period of Europeanization, although the determination of a direct connection between EU impact on agency creation and type of creation cannot be determined but has to be more thoroughly examined by future research.

Table 5: Type of Agency Creation

Type of agencification	Type of change	Agencies formed before 2000	Second phase agencies (2000–09)	Total	%
agencification	new organisation for new tasks	5	24	29	39
agencification by separation (decentralisation)	separation of functions from ministry or other part of central administration (depoliticisation )	5	14	19	25
agencification by transformation	merging, separation of organisational unit from existing agency or other type of separate body (division), reorganisation of existing organisation	6	15	21	28
status quo	no significant organisational change (inherited)	6	0	6	8
Total		22	53	75	100

Source: Author's data

*The tasks of agencies.* Agency-type organisations in Croatia function in various functional domains, with almost all policy areas affected by agencification. In general, agencies in the economic area significantly outweigh agencies in non-economic (social) services – 45 agencies (60 %) deal with economic affairs (finance, economic, rural, or regional development, agriculture, traffic and communications, environment, construction), and only 25 agencies (33%) with social affairs (health, science and education, culture). One of the explanations might be related to the need for effectiveness in different economic areas, but also to the fact that European policies strongly (although not exclusively) affect the economic sector.<sup>9</sup>

The task description of agencies in the founding legal instrument has been analysed in this research. Agencies are classified into three categories, according to their primary task: regulation, expert-analytic, and executive-operational tasks, taking into account the type of task (administrative or expert tasks, general rule-making, decision-making in individual cases, licensing, certifying, supervisory task, data collection and dissemination, expert analysis, standardisation, policy monitoring), the sector of their activity, and the criteria for agency creation (purpose, users, task). Consequently, three types of agencies can be distinguished,<sup>10</sup> as shown in Table 6: (a) regulatory agencies, (b) executive agencies and (c) agencies for the support in policy formulation and implementation (expert agencies).

Regulatory agencies regulate and supervise behaviour in the specific sector, by issuing regulations or individual decisions, conducting supervision and enforcement of rules as well as sanctioning of deviant behaviour. They are organised according to their purpose, and they are active in economic or social spheres, in all phases of the policy cycle (preparation, formulation and implementation). In the economic sphere, agencies function as independent regulatory authorities in network industries and finances, such as telecommunications, energy, traffic and financial services. In order to ensure politically independent regulation, those agencies rest on the pillars of expertise, with higher degree of autonomy and looser control. In social sphere, this category includes agencies whose task is to ensure high quality services by setting standards and supervision of service provision.

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<sup>9</sup> However, the agencies are most numerous in the areas of health (11 or 15%), traffic and communications (10 or 13%), and science and education (10 or 13%), followed by finances (6 or 5%) and economic development (6 or 5%).

<sup>10</sup> Similar classification of the Croatian agencies was made by Koprić (2009a) who differentiates between regulatory agencies, quality and standardization agencies, developmental agencies and executive agencies.

In contrast to economic regulators, they are not primarily concerned with issuing regulations, but they are intensively included in decision-making and supervision. It is possible that the importance of the issues they are dealing with, such as health or welfare, imposes the need for division of responsibilities between the agency and the respective ministry. Thus, the agencies are left with the authority to control the market entrance and the quality of services.

Executive agencies are mainly concerned with policy implementation, usually by issuing decisions relating to individual rights or financial support, although some of them might be engaged in issuing general rules in order to fulfil their function. Still, regulation in terms of general rulemaking is mainly confined to ministries. The term executive agencies covers a variety of agencies that perform a whole range of different activities, from individual decision-making, licensing, certifying, to public registers, financing programmes or projects, operational activities and service provision. Executive agencies appear in both economic and social policies, they are organized according to purpose or user group, and their primary task is executive-operational. Compared to regulatory agencies, executive agencies have lower autonomy level, but higher control level, which should ensure policy implementation. Among them several subtypes are found: (a) supervisory agencies, which ensure enforcement of policies by issuing licences or certificates to the service providers and by sanctioning and supervision; (b) operational agencies dealing with rights and duties of the users, which makes their primary task mainly administrative in nature, and less based on special or expert knowledge; (c) developmental agencies created with the purpose of fostering development in certain policy area, mainly by financing programmes or projects and by supervising the policy implementation, including service provision to the users in both economic and social spheres.

Expert agencies are included in policy preparation and monitoring, based on their expert knowledge. Their primary tasks relate to proposing policy measures and planning, formulating standards, producing scientific or expert analysis for the development of specific policy areas or activities, information gathering and dissemination, creating information base for policy development, coordinating other organisations, etc. Some of them are created as monitoring centres, information centres or coordinating agencies. They are usually organised according to the task, mostly in social sphere (health, environment protection, education). They often exercise some form of public authority, related to decision-making in individual cases, keeping of public registers, etc. They are usually created in the



form of public institution, which makes them relatively autonomous, and weaker political control is compensated by professionalism in their work force and governing structures.

Table 6: Types of Agencies According to Their Task

CHARACTERISTIC	REGULATORY AGENCIES	EXECUTIVE AGENCIES	EXPERT AGENCIES
TYPE OF TASK	regulatory	executive-operational	expert-analytic
TASKS	rule-making (regulations, standards), individual decisions, supervision, sanctioning	individual decisions, public registers, financing, supervision, operative tasks	expertise, planning, standardisation, expert proposals and evaluations, research, coordination
SUBTYPES	economic regulator social regulator	supervisory administrative-operational developmental	expert informational monitoring coordination
ORGANISATION CRITERIA	purpose / goal	users	type of task
AUTONOMY	high	low	medium to high
POLITICAL CONTROL	low	high	low to medium
NUMBER OF AGENCIES (PERCENTAGE)	12 (16%)	41 (55%)	22 (29%)
EXAMPLES	Electronic Media Agency, Croatian Competition Agency	Agency for Public-Private Partnership	Agency for Vocational Training, Croatian Institute for Public Health

Source: Author's data

*Governance arrangements.* There are three types of governance structure in the Croatian agencies: (a) mixed type, with the executive director and the management board, which prevails in the majority of agencies (67 or 89%); (b) collegiate type, with agencies having only the management board with or without special status of its head; (c) individual agency heads (executive directors).

The management board, as a collegiate body, decides on strategic issues such as the programme and agency statute, adopts annual budget, ap-

proves annual accounts, and adopts all relevant decisions relating to the fulfilment of the agency's mission. Its size ranges from three to thirteen members, and their terms of office vary between four and five years. In contrast, the executive director is head of the agency and its legal representative, responsible for its functioning, most often appointed for the four-year term by the management board.

Depending on the composition of the management board and the way of appointing the executive director, it is possible to distinguish between different types of governance structure that indicate the level of autonomy and control mechanisms (see Table 7). *The political model* of governing structure exists in more than a half of agencies (43 agencies or 57%), but political appointments made by the Government or the Parliament are twofold, depending whether the members are appointed according to their function (e.g. ministers, state secretaries, presidents of parliamentary committees or other state bodies) or they represent the state administration or profession (the formulation is 'from the circle of experts'). The former type of political appointments exist in eight (11%) cases, mostly in the financial and economic policy areas with significant financial resources, which require firmer political control, while the latter is found in 35 agencies (46%) in various sectors. In *the participatory model*, the board members are representatives of stakeholders and experts, most often appointed by the government (or minister), interest groups or organisations such as chambers, professional associations, academia, users etc., mostly in the area of education, science and health (21 or 28%). In some cases, there is an obligation of the respective ministry to announce a public call for appointments. Finally, *the professional model* encompasses eight (regulatory) agencies in which the management board consists of professionals appointed on the basis of professional criteria defined by law or regulation, but the professional model structure also includes agencies having only an individual head (executive director). In five professional model agencies, the governance structure includes only the board, with president of the board acting as the head of the agency. Such a structure should ensure political independence and expertise of the regulator - the collegiate body represents an organisational instrument of greater control (see Pusić, 2002), board members are appointed by the Parliament (based on the Government's proposal), the term of office is longer than in other agencies (five or six years). In two agencies, board members do not take their functions simultaneously. In addition, appointment conditions are prescribed by law (expertise, professional experience highly visible, skills, professional relevance in the field).

When it comes to dismissal of the board members, the conditions are usually defined by law (for professional model). Moreover, in most cases pertaining to the political model, it is explicitly defined by law that board members can be dismissed before the end of term, which implies that political control over these agencies is high. Finally, the insulation from political influences is emphasized in 14 agencies by two provisions – the incompatibility of the management board function with other political or economic functions and the provision of the conflict of interest.

Table 7: Type of Governance Structure

Governing structure	f	Type	f	%
management board and executive director	68	politically appointed by function	8	11
		politically appointed	35	46
		participatory model	21	28
		professional model	3	4
management board only	5	professional model	5	7
executive director only	3	professional model	3	4
Total	75	Total	75	100

Source: Author's data

On the other hand, the executive director is usually appointed by the founder (usually the Government) or by the management board, based on expert knowledge and following a procedure of public announcement. Still, the fact that the professionalism is a prerequisite prescribed by law does not guarantee that the executive director is free from political influences. This is especially visible when the management board consisting of politically appointed members appoints the executive director.

Finally, numerous agencies have scientific committees or other advisory bodies, usually comprised of the representatives of the founder, experts, or interest groups (trade unions, professional chambers etc.). Moreover, funds managing considerable financial resources and performing highly important tasks, such as the Croatian Privatization Fund, have a supervisory board consisting of MPs and experts appointed by the Parliament. In sum, different governance structures point in the direction of various levels control over agencies, as well as their autonomy that mostly depends on the agency's function and its role in policy implementation. In

general, professional criteria for appointment add to agency's autonomy while political appointments lessen the autonomy and create space for intensive political control. Similarly, the inclusion of users' groups or interest groups in the governing body adds to the control dimension.

## 5. Discussion and Conclusion

The previous chapters picture the process of agencification in Croatia, by defining the agency model, its place in the public sector configuration and by presenting the findings of the research of 75 agencies. The agency model follows a generally accepted definition of the agency (Pollit *et al.*, 2004), with smaller adjustments to the Croatian case, indicating that the Croatian administration was also affected by the agencification fever and isomorphic pressures (Powell and DiMaggio, 1991). However, when it comes to institutionalisation of agencies in Croatia, it is worth emphasizing that the agency model has not been implemented within a systemic conceptual or legal framework. Instead, the agencies have been added to the existing public sector configuration, nestled to free niches of institutional design, allowing for significantly higher autonomy and greater politicisation. Still, a step outside the traditional framework for agency governance structure has been made in relation to the professional model leadership in regulatory agencies, which should compensate for the lack of political control in relatively autonomous agencies that are a novelty in the Croatian institutional setting. Turning back to the questions posed in the title of this article, the findings indicate that the agency as a type of administrative organisation has not been recognized as an impetus for substantial institutional innovation that would require a complex approach leading to the specific regulation and thus recognition of new ways of doing things, a new institutional form.

With regard to temporal dimension of agencification and its motives, the previous chapters show that the process of agencification in Croatia coincided with the intensive institutional adjustments for the EU membership. The years of EU negotiations (2005–2009) witnessed the proliferation of agencies, since 32 out of 75 agencies were established in that period. Moreover, the analysis of the National Programme for the EU Accession, which contains the measures for fulfilment of Croatia's formal obligations, has shown that more than 50% of agencies have been addressed in the Programme, either in terms of the need to create an

agency or to strengthen the capacity of the existing organisation. The EU accession and institutionalisation of EU-Croatia relations had created pressures for institutional change and subsequently led to agencification. The opening towards EU membership in 2000/2001 was determined as a critical juncture that gave impetus to agency creation. Agencies have been established in different functional areas in order to ensure effective implementation of the European policies and functioning of the internal market, as well as the European governance system, which relies on national administrations. However, according to generally accepted understanding that Europeanization of public administration in CEE candidate countries was induced by conditionality mechanism, the agencification process in Croatia has confirmed expectation of the 'shallow' or superficial institutional change as a consequence of cost-benefit calculus. The progress towards the EU membership is the main benefit of the creation of agencies, and the change is not transformative but has the form of coercive isomorphism, leading to a sort of ceremonial adoption for the reasons of agencies' external legitimacy. The agency model has not been recognized as a completely new institutional model with its own goals, values and rules of behaviour. Instead, agencies are incorporated into existing public sector configuration. Thus, the impact of the EU is evident, although unambiguous.

Except by coercive isomorphism, which emerged due to conditionality mechanism of the EU accession, the institutional change can happen by normative or mimetic isomorphism (Powell and DiMaggio, 1991), or, as presented earlier, the change might be induced by external shock (Tolbert and Zucker, 1994; Olsen, 2008), when the existing institutional boundaries and identities, as well as the explanations and resources, have to be re-examined. These modalities of change constitute the possible sources for transformation of the process of agencification and the model of agency as it was built during the accession process, opening a broader space for reversible processes, rethinking and adjusting. In other words, by lesson learning, through socialization in European networks of agencies or other EU structures, or by lesson drawing, in the meaning of recognizing current situation as unsustainable (due to the costs or inefficiency; *see* Schimmelfennig and Sedelmeier, 2005), the existing agency model might be transformed. Both mechanisms have potential to induce deeper transformation and institutionalisation of the agency model. It is also possible that the outside pressure to change might be so strong that it leads to fast and significant change of existing practice. The practice implies that these mechanisms are operational.

Firstly, Europeanization can proceed in a more informal manner, through socialisation in EU networks of agencies. The agency members representing the agency in European networks are exposed to isomorphic pressures that can lead to change in agency design. This softer version of Europeanization, according to the logic of appropriateness, is much harder to measure, but one can assume that the space for European pressures opens up if the agency reports to an EU agency, or actively implements European regulation. Hence, the space for learning by socialization and adoption of new values, norms and meanings according to the logic of appropriateness is opened up by Croatian agencies' participation in European networks of agencies or other EU institutions, especially after joining the EU (2013). Environmental pressures could eventually lead to the adoption of good practices, standards of participation, consultations, financial management, transparency or accountability, which would cause change of administrative culture. In the main research, which has served as a foundation for this paper, the questionnaire included the questions relating to the possibility for Europeanization through socialisation. The findings show that more than a half of the agencies that responded to the questionnaire (31) participate in the networks of EU agencies, conduct the EU programmes or participate in EU negotiations. However, deeper transformation takes time and includes value transformation, with normative (professional, peer) pressure being a particularly strong factor for institutional change.

Secondly, as in many other European countries (*see Verhoest et al.*, 2012), the economic crisis that emerged as a shock in Croatia in 2009 has put a strong pressure on the public budget and provoked the need for re-examination of the existing agency model. In the Economic Recovery Programme of the Croatian Government adopted in June 2010, the reorganisation of agencies was determined as one of the key activities that should decrease the budget expenses, along with creating the register of public servants and general decrease of the number of employees in public administration. The programme envisaged cutting the number of agencies by conducting an analysis of existing agencies, by the development of criteria for agency creation and their control mechanisms, and, additionally, by redefinition of the functional scope for existing bodies via concentrating similar tasks in one agency or ministry (merging), and in the later phase by the introduction of the performance management system. As a consequence,<sup>11</sup> after the period of steady growth in the number of

<sup>11</sup> The Government document of July 2010 analysed 14 agencies and envisaged the abolition of 12 agencies by merging them with other agencies or with state administration

agencies, a sharp decline happened during 2010 when 17 agencies (20%) were abolished indicating a reversal of agencification process, although simultaneously four new agencies were established.<sup>12</sup>

Thirdly, a complex administrative system, which emerged as a result of sedimentation of different layers of organisations in the public sector at different points of time, has caused serious governance problems. Having in mind that in Croatia political elites have not systematically dealt with public sector organisations inherited from the socialist past, the political and administrative culture endorsed a chaotic public sector with its blurred lines of accountability, ineffectiveness, weak coordination and political influences working behind the curtain. The directions for reorganization of agencies were already defined in the Government's Strategy of State Administration Reform 2008–2011 whose aim was to enhance efficiency and effectiveness and to decrease expenses. The planned activities included a functional analysis and a review of organisational structures, management and functions of the state administration bodies (ministries and others) and legal persons with public authority (agencies and others), including the adoption of legal framework for the agency creation and design (functions, responsibilities, control, recruitment, job classification, status of employees, and the method of revenue collection). However, these steps were not taken in the proposed way, except when the economic downturn and general social and economic crisis forced the Government in 2010 to abolish 'unnecessary agencies'. It was only in 2012 that a plan of action for evaluation of the existing agency model and formulation of new 'rules of the game' was elaborated, due to the combination of the economic crisis factor, similar activities in other countries and the EU, and because of a greater awareness of the defects in the present agency model.

Although the agencies in CEE transitional countries due to their accentuated autonomy 'often become players in their own right that can resist changes they dislike', as Beblavy (2002) puts it, current practice and research (see Verhoest *et al.*, 2012) show that the severity of crisis is not permitting further inefficiencies. In this way, a new critical juncture (a crisis), but also a new fashion (evaluation of the agency model in other countries)

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bodies. Altogether, those agencies had 962 employees and 20% of their annual expenses were spent on 'the intellectual services' – in other words, they were using outside experts to carry out certain tasks, instead of doing them by themselves, as expert agencies.

<sup>12</sup> In the period 2009–2012, when the reversal of agencification process was provoked by the economic crisis, in total 19 agencies were abolished, and seven new agencies were created, with total decrease of 12% (see Musa, 2013).

are opening the door for the institutionalisation of agency model in its genuine meaning. However, in Croatia, as well as in other countries, the reform of agencies is not an isolated effort but relates to a systematic change in public administration. This includes a new approach to transparency, financial management, appointments and recruitments, control mechanism in the public sector, as well as the need for strategic approach and/or legal framework for agencies. In other words, the administrative organisation cannot be isolated from its environment – the agency's autonomy and agency control depend not only on the agency design but also on the capabilities of relevant actors, such as parliaments, governments or ministries, of controlling their agencies by different instruments as well as by creating environment for their relatively autonomous actions. To quote the famous 'Yes, minister' series that popularized the NPM reforms: 'It takes two to quango!'

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## AGENCIES IN CROATIA: SOMETHING OLD OR SOMETHING NEW?

### Summary

*Agencification has been one of the main administrative developments in the last decades, driven by neo-managerial reforms and the changing character of the state. In post-socialist transitional countries, agencies were introduced into a different institutional landscape, often adding to the existing public sector complexity, with agency model's logic being used for domestic political purposes. The growth in the number of agencies coincides with the process of the EU accession. The paper explores the basic features of the agency model in Croatia as well as the interconnectedness between the processes of agencification and Europeanization of public administration. The basic features of agencies in Croatia as well as their place in the public sector organisation landscape indicate that the Croatian agency as an administrative organisation resembling those found in other countries. However, instead of being recognized as a distinctive institutional form, agencies in Croatia were created along with the advancement of EU membership, without development of the appropriate instruments of autonomy and control, although some novelties in institutional design, such as professional governance structure, have been introduced. The opportunity for deeper institutional change and the development of a genuine agency model has opened recently, with the economic crisis serving as a sort of a shock to the system, with agencies being perceived as one of the main generators of blurred accountability and ineffectiveness, which consequently have to be re-examined. The socialization of agency members in the EU institutional context might lead to a new approach to agency model.*

Key words: agency, Croatia, Europeanization, administrative reform, autonomy, control

## AGENCIJE U HRVATSKOJ: NEŠTO STARO ILI NEŠTO NOVO?

### Sažetak

Agencifikacija je bila jedan od glavnih načina upravnog razvoja tijekom prijašnjih nekoliko desetljeća, pokretana neomenadžerskim reformama i promijenjenim značajem države. U postsocijalističkim tranzicijskim zemljama agencije su uvedene u drugačije institucionalno uređenje, često povećavajući ionako složenu strukturu javnog sektora, uz korištenje logike agencijskog modela u domaće političke svrhe. Povećanje broja agencija poklapa se s postupkom pridruživanja EU. U radu se razmatraju osnovne značajke agencijskog modela u Hrvatskoj, kao i međusobna povezanost procesa agencifikacije i europeizacije javne uprave. Osnovne značajke agencija u Hrvatskoj i njihovo mjesto u organizaciji javnog sektora pokazuju da hrvatske agencije kao upravne organizacije nalikuju onima u drugim zemljama. Međutim, umjesto da su priznate kao poseban institucionalni oblik, hrvatske agencije osnivane su usporedo s napredovanjem procesa pridruživanja EU, bez razvoja prikladnih instrumenata autonomije i kontrole, iako su u oblikovanje institucija uvedene određene novosti, poput profesionalne upravljačke strukture. Prilika za dublju institucionalnu promjenu te za razvoj pravog agencijskog modela ukazala se nedavno, kad je ekonomska kriza izazvala neku vrstu šoka u sustavu i kada se na agencije počelo gledati kao na jedan od glavnih generatora neefikasnosti i zamagljenih granica odgovornosti, čije postojanje stoga treba preispitati. Socijalizacija zaposlenika agencija u institucionalnom kontekstu EU može dovesti do novog pristupa agencijskom modelu.

Ključne riječi: agencija, Hrvatska, europeizacija, upravna reforma, autonomija, nadzor