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Pregledni članak  
352/354:343.352>(497.5)  
343.352:35>(497.5)  
Primljeno: 26. studenog 2002.

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**Corruption in Croatia.  
Institutional Settings and Practical Experiences**

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Summary

Although the Croatian government has expressed a determined obligation to undertake measures against corruption, still there are opinions that the fight against corruption is not given the political acceptance and respect that are their due. After the Introduction, in the second part is raised the issue of public administration, while in next part is analysed the situation in judiciary. One can estimate that in the Croatia there are different laws and institutions in charge of reducing the corruption, but serious problem is a low level of law enforcement discussed in the part four. Part five is dedicated to social and economic sources of corruption (like privatization, informal economy etc), while in part six is stressed that in Croatia the regulation of the funding of political parties is almost completely underdeveloped. The last chapter before conclusion remarks analyses the role of civil society and the media.

*Key words:* corruption, countries in transition, Croatia, public administration



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*1. Introduction*

In January 2000 Croatia saw changes in government when a coalition of political parties won the elections against the ruling HDZ (Croatian Democratic Union) which led the country for the whole decade. During the period of HDZ rule many cases of corruption had been raised by journalists, but apart from media pressure, those suspected of corruption or being involved in organised crime faced no further consequences for their possible wrongdoings. Following the critical election that ended the lengthy regime of its once-powerful political leaders, Croatia has moved sharply towards a more competi-

tive and democratic system. The new government has taken a more positive and decisive approach towards European integration and the fight against corruption. The government of Croatia could be acknowledged as having placed anticorruption and institutional reform high on its policy agenda, developing and accepting a comprehensive anticorruption programme, announcing sweeping reforms in public administration, and proposing freer access to state information. Through its *Anti-Corruption Action Plan*, the government has expressed a determined obligation to undertake measures against corruption, actions that are not only expressed in programmes but also through tangible results. However, there are opinions that the fight against corruption is not given the political acceptance and respect that are their due.

The government is trying to encourage transparency in public tenders and contracts, clearly laying down the sphere of competence and responsibility of public servants and their abilities to make discretionary decisions. The situation is particularly bad in the judiciary, but there have been some improvements. In concrete there are proposals to transfer to the notaries public certain non-litigation procedures, which will take some of the load off the courts, increase judges' wages, and those of court clerks, and to link the opportunities for advancement and the gaining of further professional qualifications with effectiveness, improve the territorial distribution of the courts (splitting big courts into several smaller courts), equip the courts better, have specialised judges, improve cooperation with experts of other professions, reconsider the Litigation Proceedings Law, build up the civil service by founding a university course of contemporary public administration, which would indirectly have an effect on the changes of conditions in the judiciary, modernise the distraint procedure so that creditors might obtain their rights more simply, and bring in alternative manners of settling disputes – by external arbitration and conciliation out of court, and internal arbitration in the courts, for which a law of arbitration still needs to be passed.

A group of independent experts and representatives for the Ministry of Justice, Administration and Local Self-Government of the Republic of Croatia, supported by the Croatian government prepared a National Anti-Corruption Programme entitled the *Anti-Corruption Action Plan*, accepted in Parliament (NN 34/2002). The Programme explained the harmful consequences of corruption. It contains a comprehensive Action Plan for fighting corruption with set tasks, the task carriers responsible and timing. Tasks are directed towards the rule of law and the effectiveness of the rule of law, the establishment of a specific body specializing in the prosecution of cases of corruption, raising the efficiency of the criminal prosecution of corruption, organizational measures in the administrative system, decentralization, financial responsibility measures and other economic measures, international activity and the stimulation of political and civil responsibility. The Programme can be found in English at <http://www.transparency.hr>.

The Croatian government is heading towards openness and non-discrimination in trade. Not only does openness boost economic efficiency and, on the balance of the evidence, economic growth, but simple and open trade regimes aid good governance. They reduce the opportunities for discretionary policies, and hence for corruption and arbitrariness, and they offer a way of conserving skilled labour for the many other challenges of development, such as education and efficient administration. One could argue that the Republic of Croatia has started to and should further embrace vigorous trade

liberalization packages, albeit with suitable transitional periods, that trade policy should address barriers, such as poor customs formalities, infrastructure and tariffs, and that liberalization should be multilateral and not regional in nature.

## *2. Public administration*

### *2.1. Level of transparency and accountability of administration*

State officials have the legal obligation to submit a written statement about their assets and the assets of their spouses and their children who live in the same household as them, or who work with them, together with a schedule of assets. The category of officials (or functionaries) includes all the administrative managers who are elected or appointed by political organs (Parliament, the government): the prime minister and other members of the government, the secretary and deputy secretary of the government, deputies and assistants to ministers, secretaries of ministries, directors of state administrative organizations, heads of offices, directors of agencies and directorates of the government and the director of any institute appointed by the government. The manner of behaving with and saving these statements is regulated in detail for government-appointed officials, by a governmental decree.

State officials may not be members of the boards of management or supervision of joint stock companies, of institutes or extra-budgetary funds, or be advisers of such or in any kind of contractual relationship with them. If certain exceptions are foreseen, the law stipulates that the officials may not receive any remuneration for their work. They are forbidden to receive gifts, services or promises that might make them dependent in their work upon the donor. They must at once inform the body that elected or appointed them about any possible conflict between their businesses, private or any other kind of activity, or that of their wives and children, with the public interest and the office that they hold, and they must also inform the ethics commission in the Parliament. The draft law has been prepared about the prevention of conflict of interests and is in second reading in the Parliament. The draft law aims at creating conditions which will make any conflict of interest impossible and is part of the overall struggle against any form of corruption at the legislative level.

The ethical norms for state and public senior civil servants are defined for given line ministries, services, bodies and establishments. Ethical norms have been codified for the police, at the level of unions and professional associations of given professions (education, health care, social work) or at the level of given institutes (faculties). Some ethical norms have obtained the form of statutory norms and have been embodied in the State Administration System Law.

Bodies of the state administration are bound to afford members of the public information, instructions and professional assistance, to make it possible for them to obtain their rights and fulfil their obligations in a simple way, reimburse them for any damage incurred by responding to a call to undertake some official administrative action that was not actually carried out, to enable them to submit complaints about the work and improper attitude of civil servants, give answers to complaints in a period of 30 days, and so on. Higher administrative organs have the right to supervise the attitude of

the servants of the lower organs to the members of the public. In local units of self-government there is also an obligation to make it possible to submit complaints and proposals about the work of all the bodies and organs, and of local civil servants, and there is also a similar obligation to respond to members of the public in a period of 30 days. However, there is no document or charter codifying the rights of the public with respect to the state administration and the organs of local units of self-government.

In administrative matters in which bodies of the public administration (state administration, local and regional self-government, and public establishments) make rulings about the rights and obligations of individuals and legal persons, for example about the issuance of permits and licenses, the imposition of bans or obligations, are bound to act in line with the General Administrative Procedure Law (ZUP in Croatian). Some phases or questions of procedure are governed by special laws (e.g., in taxation and customs matters), but even then the norms of ZUP are applied in subsidiary way.

During the whole of the procedure, a party and any other person who is interested have the right to be informed about the course of the procedure, to look through and examine the files of the case. A procedure by and large ends with a ruling being made. This has to be founded on the law and regulations passed pursuant to the law. Only in cases prescribed by the law can the body make a decision at its own discretion. Then the body has to make its decision in line with the public interest. A statement of reasons has to be given for every ruling. The statement of reasons must quote the state of affairs as determined and the legal regulations that have been applied. A body must also give a statement of reasons for a ruling made according to its own discretion, and put forward the reasons that were crucial in this discretionary ruling. An appeal is permitted against a ruling or a suit to the Administrative Court of the Republic of Croatia. An appeal may object to the legality and justice (effectiveness) of the ruling made, and the superior body can quash or amend the ruling. The Administrative Court, during an administrative suit, can only rule on the lawfulness of the instrument being rebutted. It can quash it or send it back down to the administrative bodies to be ruled upon again.

In a series of administrative matters – about the giving of concessions for example, the procurement of goods and the contracting of civil engineering and other works, leasing real estate, manning places in the civil service – the bodies of the public administration must advertise in public, invite tenders or public competition, which must all be advertised in the main papers. In all of these procedures, the participants must be allowed to see the files of the case and must be allowed legal remedy (an objection or an appeal), and finally the protection of their rights in an administrative suit before the Croatian Administrative Court.

## *2.2. The status of civil servants*

The guarantee of the political independence of civil servants is based on the constitutional guarantees of the equality of all residents irrespective of their political convictions and the rights of all citizens to take part, under equal conditions, in the performance of public matters and to be taken on in the public service. It is upon this that

the legal ban upon privileging junior or senior civil servants or of depriving them of their rights because of their political affiliations or some other reasons.

The system of public competition for all jobs in the state, public and local administrations, except in rare cases, results in greater attention being paid to education and professional competence. Every candidate that has taken part in a competition can seek protection for his or her rights before the Administrative Court, and after that, pursuant to the constitutional guarantees of equality, through a constitutional suit before the Constitutional Court.

Protection of the political independence of civil servants is also reinforced through the institute of the incompatibility of service in the administration and membership in some representative body of the same community (state, or regional or local unit). Civil servants are allowed to be politically active, with the guarantee of certain rights, such as the right to be away from work in order to take part in an election campaign and so on.

Nevertheless, statistical data and questionnaires show that in the post-1990 period, particularly in the first half of the 90s, there were mass dismissals of civil servants because of their political convictions or ethnicity, and new employment, privileging taking place on an ethnic, political, local or friendship basis. It was noticed that the creation of jobs and the definition of the qualifications for employment in the service were framed in some cases specifically to fit the persons it was wished to receive.

Certainty of employment in the administration is formally fairly well stressed, although in fact it was fairly low, particularly in the first half of the 1990s. Any adult Croatian citizen with the appropriate qualifications can be taken on in the service, and so can stateless persons and foreigners, with special permission. Additional conditions, if previously prescribed, can be sought for some jobs. No person can be accepted if he or she has been convicted of one of the crimes (felonies) specified by the law, sentenced to a term of imprisonment of a minimum of three years, or if he or she is engaged with some activity that as a civil servant he or she would be supposed to supervise. For some kinds of service, additional hurdles in the way of acceptance can also be prescribed by special laws.

As for the acceptance of gifts, ownership of companies, membership in the boards of companies, the regulations that govern the conflict of interest in the performance of public duties are applied in an appropriate way. Supervision from this point of view is carried out by the managers of the administrative organs. Such imprecise formulations and the authority to supervise being vested in the manager cannot be assessed as satisfactory (Koprić et al., 2002).

Restrictions about employment after cessation of employment in the service are not governed in any particular way, rather a regulation from the general labour regulations is applied. The employer is given a subjective period of 3 months and an objective period of 5 years in which to react to a violation of the legal ban on competition. Civil servants are obliged to preserve official or other kinds of secrets as laid down by the law or some other regulation. This obligation holds for at the most 5 years after the cessation of service.

In Croatia new civil service legislation aimed at establishing a more open and equitable system of government hiring of officials and at promoting the integrity of public officials has been adopted. However, as in other transitional countries, civil service legislation remains insufficient and institutions for management and control of the civil service will need to be strengthened (OECD, 2001). The authorities in the Istrian County organized a project on transparency in local government. The project includes assessment of the present situation, determining the key sore points from the point of view of the citizens and implementation of measures for the improvement of local government functioning. Issues of corruption affect members of the public mostly at the local level of government and therefore the project would be significant as the starting point for tackling the problem in other areas. By the Decision of the Pula City Council, in year 2002 is established the Committee for fight against corruption. That is a positive sign of political will on local level. Citizens could complain to the Committee if they suspect corruption of public servants and politicians. Also is introduced the government obligation to provide information about its work to the citizens and mass media. Similar Committee with akin tasks is established in the City of Varaždin.

### 2.3. State Audit Office

Provisions for independence and criteria for appointment and removal – The Croatian State Audit Office (SAO) complies with the most important conditions: that the Office is an independent institution and that it is responsible only to the Parliament and not to the government. SAO has an obligation to make an annual report of its auditing work to the House of Representatives of the Croatian State Parliament. According to Article 12 SAA the State Audit Office shall be run by the Auditor General. The Auditor General shall be appointed by the House of Representatives of the Croatian State Parliament (*Sabor*) for the term of 8 years and he/she can be reappointed. The tenure of the actual Auditor General is to be assumed as per the original appointment. The Auditor General shall be discharged before the end of the tenure: if he/she requests it, when appointed to another position with his/her consent, if he or she permanently loses the capability to carry out the duty, and if found guilty of a crime which makes him/her unworthy to carry out the duty of Auditor General.

Legal powers and powers of enforcement – SAO can issue *orders* for the elimination of infringements of the law, and the said infringements must be solved according to such orders. SAO can also provide *opinions* and recommendations that are not binding. SAO can not issue punitive sentences for infringements of the law. In SAO Reports for every year any infringements of the law determined by the auditing process are described and the body surveyed is obliged to eliminate them so as not to repeat them in further operations. The SAO also deals in its reports with the situation respecting infringements of the law determined in previous Reports.

SAO Auditing Reports should be discussed in the Croatian State Parliament. According to Article 11 SAA the report must be submitted to the Croatian State Parliament, not later than five months following the expiry of the date for the submission of annual financial statements. The Parliament adopts a decision about the realization of the SAO findings.

SAO Auditing Reports are available to the general public on the SAO Internet pages (<http://www.revizija.hr>). SAO Auditing Reports for the year 2001 are on the Web site <http://www.revizija.hr/doc-new/izvoradu.doc>, and here are also the Reports from the earlier years. For example, the Auditing Report for year 2000 for the Ministry of Finance, Tax and Custom Administration can be found at <http://www.revizija.hr/doc-new/4-minfin.doc>. SAO was set up to supervise and control the Budget and budgetary beneficiaries. It regularly publishes reports about audits it has done and appends them to parliamentary Budget debates. Although of very high quality, the findings of the audits to date about shortcomings in the budgetary process have not been adequately applied in practice.

The code of professional ethics has been authorized by the Auditor General in compliance with the Code of Ethics of INTOSAI. In addition, SAO organized meetings with and was visited by representatives of OECD-a and World Bank, regarding the Programme for Anticorruption Pact about stability for South-East Europe (SPAI) and monitoring the improvements of the auditing system in the Republic of Croatia u (Državni ured za reviziju, 2001).

It is a disadvantage that according to the Article 8 of the Decree about amendments to the Decree about Titles and Salaries of Public Servants and State Employees (NN 112/01) employees in SAO have the same incomes as other state employees or public servants. According to this, jobs in SAO have a coefficient of complexity and monthly salary equal to those of other state employees and public servants. The new regulation put aside the special rule that regulated salaries of employees in SAO. That could have a deleterious effect, with the best and most experienced staff from the Office leaving and transferring to other services or private auditing firms.

Simultaneously, according to the Article 3 of the Decision about Amendments to the State Audit Act (NN 112/01), the SAO also got very broad and complex remit to audit the whole process of privatisation, which has to be finished by January 1 2003. Due to this, the workings of the SAO are faced with more complex requirements and obligations.

### 3. Judiciary

Article 3 of the Constitution stipulates the principle of the rule of law as one of basic values of the constitutional order. Article 4 states that *in the Republic of Croatia government shall be organized on the principle of the separation of powers into the legislative, executive and judicial branches, but limited by the right to local and regional self-government guaranteed by this Constitution. The principle of separation of powers includes the forms of mutual cooperation and reciprocal checks and balances provided by the Constitution and law.*

The judiciary in Croatia, according to the constitutional principle of separation of powers, is independent and autonomous. Part 4 of the Constitution, Article 117 has a clear provision *Judicial power shall be exercised by the courts. Judicial power shall be autonomous and independent. The courts shall administer justice according to the Constitution and law.* This means that establishment of the courts, their administration of

justice, jurisdiction and authority, the proceedings, organisation and composition of the courts, as well as the appointment of judges are regulated by constitution, constitutional law or by the so-called “organic laws” (made by an absolute majority of the Parliament and in a special procedure – the “three readings rule”).

As in the other civil law countries the primary sources of law are the Constitution itself, statutes enacted by the Parliament, and other written legal instruments enacted pursuant to statutory provisions. Due to the fact that is applied Continental law, court decisions are generally not viewed as precedents, and – although the lower courts mostly tend to follow the opinion of the higher courts – there is no legal obligation upon judges to pursue the legal interpretation of the higher courts. An additional practical problem is the current lack of access to court decisions. Publication of judgments is insufficient in various ways: only the decisions of highest courts are published, and even than only in short excerpts, and only those selected by the anonymous administrative services of the courts (Uzelac, 2001).

According to Article 119 *Court hearings shall be open to the public and judgments shall be pronounced publicly in the name of the Republic of Croatia.*

Judicial office is permanent. The Constitution has stipulated the immunity of judges and judge-jurors, to protect their independence. A judge can be suspended only for reasons listed in the Constitution. A judge cannot be transferred against his/her will. He/she can be discharged if permanently incapacitated, or sentenced for a criminal offence that makes him incapable of holding a judicial position, in a specific procedure of a disciplinary nature in the State Judicial Council. A judge must not be a member of any political party and has to avoid any kind of political engagement. The law prescribes the salaries of the judges. All these measures are intended to secure the *autonomy and independence* of the courts. It is necessary to stress that there have been different explanations of the Constitution’s Article 121 (it is ambiguous and, consequently, tends to be circumvented or misused), because in the mid-90s the privileged position of *permanency* could be used only by judges appointed according to the way of the new Constitution, and not by the other judges appointed according to the norms that were valid before the new Constitution. That was a sign that only judges appointed during (and loyal to) the new Government could reckon on permanent appointment, and was also a clear message to others to withdraw from the bench. It is not surprising that up to the end of 1997 there was an unprecedented migration of judges to other areas of the legal profession (mostly to legal practice and the notary public service). This long time frame of insecurity had a far-reaching impact on the quality of the bench and contributed largely to the present state of crisis of the state system of justice. Also, the judicial system was subjected to executive and political influence, and the court system suffered from such a severe backlog of cases and shortage of judges that the right of citizens to address their concerns in court was seriously impaired (U.S. Departments of State, 1999).

The foundations of the organisation of the courts are laid down in a more detailed manner in the Law of Courts (*NV* 3/1994, 100/96, 131/97, 129/00). The law stipulates that courts are the bodies of state government that perform their function independently according to the law and jurisdiction determined by law. They exercise juridical power according to the Constitution and laws. Courts protect the law and order of the Republic



of Croatia securing *the uniform application of law and equality of citizens and equal treatment of everyone by the law* – Law of Courts, Article 3 (NN 3/1994).

### 3.1. Deficits of the judicial system

A list of the elements and the basic procedural norms help us to specify the normal and formal description of the system, but they do not tell us much about how it actually functions. Croatia offers a good example of how the judicial system is failing to support business and coming dangerously close to undermining democracy. Litigation, which has increased dramatically, drags on for years without resolution, raising costs for businesses and increasing uncertainty for investors (and opening up space for corruption). Instead of solving problems, the legal system prolongs them, which could also provide fruitful ground for corruption. The criminal justice system, meanwhile, has become inefficient, and criminals – both white-collar and violent offenders – have little fear of effective punishment (Kregar, 1998).

The common impression of the experts and practising lawyers is that the very intentions of the law are not being achieved. Judges are not appointed for all the planned (systematised) judicial positions. In line with this estimation, one fifth of all planned (systematised) judicial positions are still without an appointed judge. Simultaneously, one of the main characteristics of the structure of judges is that they are relatively young. Almost 40% of them are younger than 35 years. That could be a positive trait, but it also means that they do not have adequate life and professional experience. In municipal courts 61.5% of all judges have less than 6 years of working experience in court (Kregar, 1998). Despite the data on the number of judges, the overall assessment of the efficiency is not favourable in any of the alternatives – with either a high or a low number of judges (Uzelac, 2001a). In the late 1990s it became evident, however, that the judiciary was not able to cope with its new functions and the fast growing case load and the complexity of cases. Understaffed courts with highly centralized inflexible management do not allowed for quick and adequate response to the pressure created by the market. As a result, since 1998, the courts have been continuously swamped by a backlog of one million cases – in a country of some four million people. The poor quality of the judicial services manifests itself in excessive delays, unpredictable procedures and rulings, and reported corruption (World Bank, 2000).

One of the indications of the inefficiency is the incremental increase of pending cases. In an official report of the Ministry of Justice inefficiency is defined as the main problem of the judiciary. The number of new cases is increasing every year – from 1,171,273 in 1996 to 1,509,180 in 1999. The most important indicator is the number of cases pending. The increase almost doubled in the period 1996-1999 (586,668 in 1996 to 1,400,000 in 2000 – according to unofficial data from Ministry of Justice, Administration and Local Self-Government). An especially difficult situation inheres in the new system of land cadastre registry where the situation is particularly chaotic. Croatia's chronic economic instability also accounts for the increase in the volume of court cases. Each of the successive economic reforms enacted by the government completely changed the rules. The confusing rules enacted have resulted in an enormous number of disputes between parties with different understandings on how to adjust a certain obli-

gation. Although the volume of court cases pending today is extremely high; the management of the court system is still very weak and inefficient. The courts have not yet designed and implemented a uniform policy and an internal management system that would guarantee more efficient results. Internal controls over court clerks, judges and justices are not effective.

The management crisis also affects criminal justice and the law enforcement system, which have been extremely inefficient in effectively prosecuting and punishing perpetrators. With respect to the criminal courts, the volume of cases has also exceeded capacity, and controls over judges and court clerks, if any, are also very weak. Consequently, judicial proceedings are slow and sometimes useless.

Corruption in any institution impedes its operation and distorts its objectives. However, corruption in the judiciary is particularly damaging for several reasons. Also, unfortunately, the judges are also not immune to corruption. The legal system is one of the fundamental pillars of a market economy whose role as arbiter of the law encompasses both the formulation and implementation of public policy. In addition to deciding criminal cases, the courts are responsible for upholding property rights, enforcing contracts, and settling disputes. As a result, corruption in the judiciary can display aspects of both state capture and administrative corruption as the terms are used in this report. Failure of any of these roles is costly, reducing incentives to invest or forcing firms to resort to more costly private means of contract enforcement and protection. In addition to these direct economic costs, a corrupt legal system has a wider impact, undermining the credibility of the state and making the implementation of public policy more difficult. In particular, since the legal system will be the ultimate arbiter of any anticorruption programme, a corrupt judiciary will fundamentally undermine anticorruption efforts themselves.

### *3.2. Cooperation between judiciary and executive*

In Croatia there is a satisfactory legal framework for effective co-operation between the prosecution and the police; however, this co-operation must be reinforced in practice. The prosecutors must be involved in the preliminary police investigations at an earlier stage in order to improve the quality and effectiveness of the investigations, especially in the more important and more serious cases. There is an obvious lack of coordination between the different bodies engaged in the fight against corruption and organized crime. In a raid carried out at the end of October 2001, the Croatian police arrested a group of twenty-one individuals suspected of relieving the state budget through various criminal activities (including the corruption) of 21 million kunas (over €2.5 million). Shortly after the arrest, all twenty-one were released from custody because the Zagreb County State Attorney in charge refused to sign a court order for their further detention. That was just the beginning of a scandal that shook the very foundations of the Croatian judiciary system in the next ten-odd days. Police chieftains ran amuck when the rogues they had put behind bars so triumphantly were set free, voicing their rage in statements given to the press which ran something like “while we make arrests, the district attorney’s office sets them free”. The media joined in, mercilessly denouncing the Zagreb County State Attorney (the lady that was in charge). The Prime Minister

felt obliged to have his say. The State Attorney made his contribution to the whole affair by an on-the-spot change of mind. The conclusion to the story was the relieving of duty of the County State Attorney and the instituting of disciplinary proceedings against her because of – to quote the State Attorney – her “interviews to the press”, rather than any negligence or breach of duty on her part. Although the Prime Minister obviously believes he has solved the problem by removing the current Zagreb County State Attorney from office (a decision reached after a meeting with the State Attorney, Minister of Justice and Minister of Interior: a rather unconstitutional piece of decision-making for a PM), in reality it seems this has not contributed to things settling down in the least.

For one thing, the PM’s decision has changed nothing in the problematic relations between the police and the district attorney’s office which – at least at the moment – seem to be based on rivalry between the two institutions, both of them equally interested in not putting criminals behind bars. It could be said that the police are beefing up their efficiency rate by large-scale arrests lacking necessary material proof, thus leaving it to the judiciary to set the culprits free for lack of evidence. This gives room for the formation of a misconception in the public mind according to which the ever-alert police is carrying out its task with exceptional success, while the district attorney’s office is made up of incompetent and corrupted mobsters who are to blame for the fact that in this country hardly anyone has yet been convicted of a major crime. Particularly so when the offence committed concerns fraud and corruption in the economic sphere. If there is a grain of truth to the claim, a much greater amount of hard fact speaks on behalf of the thesis that the incompetent mobsters are, in fact, to be found among the ranks of the police. These people – which no one can dispute – seem to be incapable of gathering the material evidence that could send even the most obvious offenders to prison for any period of time worth mentioning. “For years now, the police have carried out investigations on their own, never bothering to contact the district attorney’s office for the necessary legal backup... If the case in question concerns organized crime and major instances of corruption, no district attorney however able he might be can hope to thoroughly examine the evidence in the mere 48 hours of custody proscribed by the law. If the police do not do their job properly, the public prosecutor must refrain from charging the detainee, since there is no way for him to establish in such a short period of time whether the evidence submitted by the police is strong enough to make the indictment stick in a court of law. If the police evidence is unsatisfactory, no state prosecutor should go for an indictment; but, what happens in reality is that some succumb to the pressure and that is unacceptable”, said the (former) Zagreb County State Attorney in an interview to a daily journal. Although truly unacceptable, in practice this does happen often: the police arrest someone, the media blaze it abroad, succumbing to pressure the district attorney institutes an inquiry, the investigative judge, himself under pressure, opts for custody, the detainee remains in jail for months on end and then the whole thing comes to an inglorious end in the courtroom: there it turns out that the police evidence is inadequate, meaning that the person has to be set free. However clear it may be that the man is a notorious criminal, nothing can be done because the investigative work was carried out sloppily. Guess who is likely to be accused of corruption by the public in the end? “How else is the public to react on hearing bombastic police announcements of its arrests of entire criminal gangs, if the district attorney fails to put them into custody afterwards? The only possible conclusion is that the district attorney is either mad or cor-

rupt”, said the replaced Zagreb County State Attorney in the same interview. Explaining the case of the twenty embezzlers of the state budget released from custody she said: “The police obviously counted on my yielding to the pressure. What I did was done not out of spite, but because I refuse to succumb to pressure of any sorts concerning my decisions to institute inquiries or remand someone into custody. After all, what we are dealing with here is human rights, a constitutional category obliging the district attorney to act in accordance with the principles of legality”. Of course, the police could not care less for the concerns voiced by the Zagreb County State Attorney: it seems all the Interior Minister truly cares about is the numbers of arrests made, so as to leave an impression on the public (and, especially, the circles close to the top of the government) that he is, in fact, doing his job; the fact that there is hardly anyone in the entire police force capable of conducting a quality inquiry or of filing a coherent police report does not seem to bother the worthy minister much. Still, the core of the problem remains unsolved (Djikić, 2001).

In the Croatian judiciary there is obviously poor cooperation with outside and foreign experts in anticorruption activities. As suggestions which might improve the efficiency of legal procedures, one could propose the further training of expert personnel. Recognising unlawful activities in certain fields of business and finding evidence to support legally relevant facts is often connected with specialised criminological and economic knowledge and expertise. Judges working in the criminal and investigation departments in the Croatian courts are not specialised in either economic crime or, for that matter, any other individual species of crime. But the solution to the above problem might really be in appointing specialised legal personnel or special judges who will know exactly what they should be fighting against. This would also significantly increase the efficiency of courts and, what is more important, judges should be able to evaluate often complex financial and book-keeping reports of court experts and other evidence which require detailed knowledge of the rules in the economic running of business. The specialist training of police officers and inspection services personnel who operate in the initial phases of delinquency discovery is equally important. Many European countries at a high level of development systematically organise expert training for personnel working in offices identifying and prosecuting offences and in those with responsibility for judging punishable conduct. To sum up, it is almost inconceivable to imagine even minimal efficiency in economic crime prevention without the general and additional expert training of all personnel concerned.

### *3.3. The working conditions of courts, selection and training of judges*

Inadequate training, together with low salaries and poor working conditions resulted in an inefficient law enforcement system that is vulnerable to corruption. Corruption also results from the lack of control over the activities of law enforcement agents, or officers such as public attorneys, police officers, advocates, state’s advocates etc. An important feature is that corruption is more a public rumour than a matter of the actual behaviour of the judges. There is a general feeling that many of those involved in procedures are ready to bribe judges or the administration in a court, and in some cases they

have done, but the level of integrity of the judges is in fact still high and such actions represent a rather unusual exception.

The impact of law and the courts on society is much greater today than before. During the socialist era, most of the social and political problems were resolved outside the legal system, in the bodies of party bureaucracy. With the transition to a market economy and a multi-party democracy, many heated problems are being submitted to the courts, which are often unprepared for such hard tasks. Virtually all major issues of social and political life find their epilogue in court – from privatisation and economic restructuring, to organized crime and corruption, and the handling of the consequences of war and ethnic conflicts. In spite of all, since the political opening-up of the mid-1980s, the Croatian judicial system has significantly improved its capabilities as an independent and serious institution. Despite its slowness and inefficiency, it is finally assuming its responsibility for guaranteeing that new laws do not violate the constitution or other statutorily higher legislation. Reflecting the growing pains of a new democracy, the executive and the legislative branches have passed a vast amount of new legislation.

It should be stressed that some improvements are done: thanks to the Programme by the American Bar Association *ABA CEELI Croatia* (<http://www.abaceeli.org>) many education courses were performed and important publication we printed. Ministry of Justice co-operate with the most of international organization, especially in problems related to managing conflict of interest and access to information. Transparency Croatia provided different educational programmes, and they will repeat workshop “Integrity in Judiciary”.

#### *3.4. Judicial activities and its results*

The analysis of public attorney office decisions on criminal reports received shows that every year approximately 20 to 25 per cent of charges are dismissed, mainly because the act in question is not a criminal one or because of reasonable doubt as to whether the person accused did actually commit it. With persons accused of committing criminal acts the probability that they really are the perpetrators is significantly higher. But we should also note that the court drops the charges in around 10% of cases, because there has either been no criminal act committed or there is no evidence that the accused person committed the act from the bill of indictment. The number of persons accused of committing criminal acts never corresponds with the number of persons convicted. The reported, the accused and the convicted categories of criminal acts represent only a part of criminality. A very specific problem of judicial statistics is the problem of unidentified criminality, i.e. its “dark figures” (actually committed, but never uncovered or reported punishable acts).

Court procedures in Croatia are protracted (lasting as many as several years). As time passes, the possibilities and efficiency in gathering the relevant data diminish, together with the ability to compile evidence on the act committed or the responsibility of a person accused of committing it. The consequence is a large number of negative court decisions (proceedings halted, charges dropped or dismissed). In the period from 1992 to 1997, a total of 3,316 criminal offences were reported. In the same period, 1,408 in-

dictments were issued, and 570 persons were convicted on the basis of final judgments. Therefore, a kind of filtering of the affairs of corruption seems to occur during a criminal procedure, so that 17.2% of reported offences result in a conviction, and only 13, or 0.0392%, end with the non-suspended prison sentence that is envisaged for such an offence.

Succinctly, the status and position of the Croatian judicial statistics are alarming. The penalties associated with breaking rules that regulate economic activities are extremely low. The total number of persons criminally prosecuted is negligibly small and the number of those actually convicted is even smaller. The perpetrators are exposed to very low risks, since the courts of law are overloaded, employees too busy and court decisions take years to become effective. The main problem is still the slowness of the judicial process, particularly in the criminal field. There is also a lack of judges and support staff. The direct result of this situation is the generally low number of charges actually pursued. It is surprising that a very small number of people are charged and convicted for the criminal acts of accepting or giving bribes. This does not reflect the real public dimension of individual criminal offences but rather the effectiveness of the detecting bodies, which occasionally fall down completely and leaves the criminal activities undetected. Croatia suffers from a problem common to many transition countries, namely, the inherent weakness of the judiciary, from the training of judges to procedural reform aimed at overcoming excessive delays in court cases.

#### 4. Law enforcement

The Article 20 of the Council of Europe Criminal Law Convention on Corruption (accepted by the Republic of Croatia and published in Croatian, *NN*, International agreements, 11/00) stipulates the following obligation of the Croatian state: *Each Party shall adopt such measures as may be necessary to ensure that the persons or entities are specialized in the fight against corruption. They shall have the necessary independence in accordance with the fundamental principles of the legal system...* As an attempt to fulfil this obligation such an agency has been established: it is the specialized Agency for anti-corruption and the fight against organized crime (*Ured za suzbijanje korupcije i organiziranog kriminala – USKOK*). The USKOK was organized on 11 October, 2001 (cf. Odluka o proglašenju zakona o uredu za suzbijanje korupcije i organiziranog kriminaliteta, *NN* 88/2001) and is envisaged as a division of the state attorney's office, though with broader powers. This office has preventive but also intelligence and investigative functions. It has a multidisciplinary composition including specialized prosecutors, investigators, accountants and other specialists. This Office coordinates the work of agencies at a national level and will play an important role in the international exchange of information from investigations relating to corruption and organized crime. The USKOK should coordinate the operation of existing state bodies that can help in the struggle against organized crime – Internal Revenue and Customs Services, the Bureau for Preventing Money Laundering, the police. The USKOK should also eliminate the possibility for other bodies to avoid complying with orders coming from the bureau or to obstruct its investigations. Furthermore, the forming of a special police unit under the direct command of the USKOK has been envisaged, as well as of a special service

to safeguard USKOK agents, protected witnesses and “squealers”, institutions still not fully defined by existing laws. A special prosecutor is at the helm of the USKOK; together with seven deputies (all of whom have the status of state attorneys) and several financial, database and criminology experts, the special prosecutor gathers information, investigates and cooperates with similar international institutions, in order at least to curb, if not once and for all root out, widespread crime in Croatia (Djilas, 2001). According to Article 12 of the Law, USKOK has a department for investigation and documentation, a department for the fight against corruption, a department for prosecutions, a secretary and administrative services.

It is too early to estimate how successful the USKOK Project will be in Croatia. It has already received substantial aid from Europe, but its efficiency primarily depends on the quality and knowledge of its staff, as well as on public and media perception of its functioning. To ensure its proper functioning, further training and material support will be needed. The first signs are very optimistic and encouraging. The acting director of USKOK Mr. Dragan Novosel confirmed on January 11, 2002 that USKOK had started to investigate cases of corruption in the entertainment channel of Croatian Television (which is very powerful and important, and owned by state). He did not want to explain any details, but he said that USKOK would examine any grounds there might be for issuing an indictment. According to information from some journals, there have been cases of bribery in the TV. During the years 1998 and 1999 some pop and rock musicians gave money (5,000 DEM per month) to editors for showing their video-clips in the Croatian popular music programme (*Hrvatski glazbeni program*). There are also some hints that the *costs* for covering and transmitting a popular music festival were around 100,000 kunas (app. 13,000 Euro) (HRT Aktualnosti – Arhiv, 2002).

In the Ministry of Internal Affairs there is a Crime and Corruption Department. On their web pages there is information about the fight against corruption (<http://www.mup.hr/korupcija/stoje.html>), free-phones, fax and e-mail addresses where it is possible to give information about corruption. In the period from September 25 to the end of November 2001, there were altogether 240 telephone calls on the toll-free phone, 20 fax messages, and 160 e-mail messages. The police have been investigating some leads and indications reported by the citizens on suspected corruption. Following the initial surge, the number of reports has been decreasing every day. The police say they are aware that, although anonymity is guaranteed, they will have difficulty obtaining information about bribery because it is always secret. Although the results are not spectacular, the police will not close their toll-free phone because they want to provide a permanently available address for citizens to report corruption and since it is believed to be a positive sign of co-operation between citizens and state bodies.

## *5. Some social and economic sources of corruption*

### *5.1. Privatisation*

The most common method of privatisation in Croatia was the management-employee buyout, while as a second measure voucher privatisation was applied. In 1999, around 60% of GDP was produced in the private sector. At least three institutional and

legislative framework factors have proved to be decisive in the process of privatisation in Croatia (Čučković, 1997). The first is the concept of privatisation chosen, which resulted in the Law on Ownership Transformation of Socially-Owned Property. It was mainly based on methods of selling, on a case-by-case principle with preferential treatment for formerly and currently employed persons. Unfortunately, the inherited economic system with its deep structural flaws and the initial “transitional depression”, later enhanced by the war, were not particularly beneficial to the preferred concept of selling. As time passed, it proved more and more unrealistic with regard both to the income realised through it and the extent of privatisation. In the time limit laid down in the law, no significant interest was shown in the purchase of parts of socially owned capital, except by employees and managers. Because of the war the interest of foreign investors was almost non-existent. Consequently, the greater part of socially owned capital finished up as a state-owned property. A number of serious economic analyses had very clearly and correctly foreseen this, considering as highly questionable a concept based only on selling. According to the Law, all the unsold property of the socially owned enterprises was transferred without any compensation into the ownership of three public funds: to the Croatian Development Fund (two thirds) and two pension funds (one third). The same happened to the assets of companies that failed to apply for ownership transformation in the authorised time limit.

Non-privatised socially-owned property thus formally become state-owned property and the citizens who had participated in creating that property in the first place were now represented by state institutions. The chosen model of privatisation, with its forms of preferential sale, had at least three negative consequences: a) centralisation at the level of the state administration of all decisions concerning ownership transformation and privatisation; b) state take-over of a significant part of socially-owned capital; c) selection of large buyers according to political loyalty.

The second important factor that contributed to the increase of irregularities was the concentration of decision-making in the hands of a state agency which was also in charge of its implementation. The central role of the state in managing the entire process of privatisation in Croatia had a series of undesirable side-effects. According to the Law on Ownership Transformation of Socially-Owned Enterprises (1991), although all firms and companies were guaranteed the right to suggest their preferred privatisation modes, the final decision on the privatisation of a particular company was made by the Agency for Restructuring and Development (later to become the Croatian Privatisation Fund, CPF). This in practice meant that it was the Agency that had the final say on who to sell to and at what price, although the companies themselves had the right to propose privatisation methods and the potential buyers that suited them best. Corruption and other irregularities were some of the undesirable side effects of the disproportionate role of the state Agency. This was not something specific to Croatia alone, but is to be found in other countries in transition and everywhere in the world (especially so in developing countries), mainly in situations when a large part of decision-making is left in the competence of a government body or administration.

The Law did not precisely establish the order of priorities or criteria for the assessment of application for ownership transformation and privatisation. The opacity of the criteria and the procedure itself opened up possibilities for an unusually large area of



discretionary manoeuvring space for the Agency (later Croatian Privatisation Fund) administrative council to assess each case separately and according to ad hoc established goals. This unrestricted arbitrary decision-making and the right to use own discretionary right in assessment of individual purchase offers, can by all means be held responsible for the consequent development of numerous irregularities in the process, as it fostered expansion of corruption and intermeshing of politics with the new private elite. The lack of transparency of the conditions for the selling of whole companies, parts or shares of them and the adjustment of conditions to each individual case produced negative consequences on the decisions of individual investors and immensely damaged the general perception of the privatisation process in the eyes of the public. In this respect, the biggest problem was the lack of legal restrictions of the role of and arbitrary decision-making by the state administration in the privatisation process. Had the Agency not been given the role of central arbiter by the Law, the problem would nowadays be far less critical.

The third factor influencing the interconnection of the “formal” and the “informal” economy on one hand, and corruption on the other, was the fact that the initial legal solution left many important practical issues undefined and unregulated, leaving them to be solved in practice. This is the reason why the initial legal solution had to be constantly amended in order to legalise some elements that had developed during the implementation of the Law on the Transformation of Socially-Owned Enterprises. The amendments were simply the counter-measure of the lawmakers to the new situation that had developed during the implementation process. For example, preferential treatment of the employees and managers in purchasing a company as laid down in the original Law had a discriminatory effect on other interested buyers. Not until the beginning of 1993 was a special government decree passed which restricted the right of preferential treatment to 50 per cent of total company value. The other 50 per cent had to be sold to the best potential investor in soliciting for tenders by the Croatian Privatisation Fund.

The frequent changes and amendments of the original text put the new owners in an unequal position, produced feelings of legal insecurity and created favourable conditions for many forms of grey economy activities. The original Law on Ownership Transformation of Socially-Owned Enterprises (1991) had six amendments. The majority of amendments adopted by the parliament were aimed at the protection of small shareholders in the privatisation process. Their participation was extremely important for the government because the government wanted to encourage broad public support for privatisation, which had lost a great deal of its vitality and strength during the first two years of its implementation. This was the main reason for constant amendments to the original Law.

The slow privatisation process favouring insiders, the lack of transparency surrounding some privatisation transactions with the privileged treatment of individuals (tycoons) well connected to the political elite, and increasing reports of corruption, raised the concerns of potential investors (World Bank, 2000b). There is no doubt that the privatisation process of the 90s was the background to the growth of the informal economy and the possibility for corruption. Most of the informal economy in the first half of the 90s, not only corruption and bribery, but also such misdeeds as the nurturing of political

clients, fictional additional capitalisation, failure to show or appropriation of the profits of firms, asset stripping, deliberate bankruptcies, abuse of official positions and so on went on in the second half of the 90s, with the new phenomena of irregularity in the privatisation of the banking sector and voucher privatisation. Because of the absence of any political will, the non-existence of an effective and independent judiciary and the inefficient public control, the informal economy was maintained in privatisation during the whole of the decade. In Croatia, the ownership transformation of 2650 companies (Privatizacija, 1998) has resulted in 908 legal proceedings initiated against the CPF in the courts of jurisdiction. Thus, more than one third of all companies that have undergone ownership transformation feel that they were not accorded their due rights. Moreover, nine company ownership transformations were completely and 94 were partially annulled. Annulment of ownership registration is possible only within three years following share registration in the share register. Therefore it seems likely that ownership of privatised companies' shares will consolidate regardless of the manner of their acquisition. A large number of companies were bought on the instalment plan, which did not, however, affect their new owners' rights to immediate management. A little more than a year ago an intensive trend was observed in connection with some of these companies. Unable to fulfil their obligations towards the CPF they began being returned to state ownership. Their adverse financial positions could be explained by the fact that a significant part of their resources had gone "private". These failures very much affected the state, the taxpayer-creditors and the banks that extended loans to these companies (Faulend/Šošić, 1999).

It is most interesting how the public appraised the effects of privatisation in 1998. The biggest winners were considered to be members of the former government (HDZ), managers and politicians, and the greatest losers farmers, workers and professionals. In 1998 almost 30% of respondents expressed distrust in the Privatisation Ministry and the Croatian Privatisation Fund (only 5% of citizens had any trust in these institutions), while between 1996 and 1998 there was a marked reduction in trust, and distrust in the legal system and the Croatian government grew as well. The structure of those who demanded a review of the transformation also shows the public perception. Most demands for a review were made by the owners of nationalised and confiscated property, small shareholders and unions. The reactions of the legal system were slow, and the first indictments were made only after the HDZ was ousted although some cases had been investigated earlier; in the 1993-2000 period, however, 75% of crimes in the economic sphere that were reported were not prosecuted.

The lack of rule of law is also perceived as the underlying cause for corrupt privatisation practices (World Bank, 2001a). In its programme for 2000, the new Government expressed its intention to improve the situation, but it concentrated on the legal bases for the review of the privatisation process and not on the construction of appropriate institutions. A revision of transformation, unfortunately, is not the best of all solutions. On the one hand it is inadequate and inefficient, and on the other hand sends a bad message to investors and puts new uncertainties into the area of property rights. Instead of a revision of transformation, broader institutional measures are required, especially those aimed at the prevention of any future such activities. The privatisation of several public firms in the form of direct foreign investment should help maintain a stable

nominal exchange rate and, it is to be hoped, speed up the process of restructuring public enterprises in Croatia (Institute of Economics, 2000).

### 5.2. *Informal economy*

In 1996 the Institute of Public Finance – Zagreb (IPF), did research into the informal economy in the Croatia in the 1990-1995 period (Bičanić and Ott, 1997). At that time the authors evaluated that the most probable share of the informal economy in the Croatian GDP in 1995 was at least 25%. Sector data were in accord with this calculated share and in 1994 covered a range of from 8% of GDP in industry to 68% of GDP in commerce. The authors concluded that the share of the informal economy in GDP was large and that it could be expected to stay equally large in the foreseeable future, thanks to the inherited tradition, the transition with its vigorous sector and institutional restructuring and the great influence of the state in the economy, particularly in privatisation; they also concluded that the high tax burden, and the renovation of growth and the new enterprise might well further support the informal economy. They suggested detailed measures of economic policy necessary for its suppression, and particularly stressed that in the attempts to reduce its share it was more important to do away with the causes than to penalise the consequences. They also stressed the importance of the development of the institutional sphere, i.e., the relation between the state and the economy. The findings of the research showed a high level of opportunism (inclination to break any rules that do not involve high risk of punishment) in Croatia (higher than such levels in Slovakia and Hungary, higher even than in Romania). More than two thirds of survey respondents were convinced that the majority of public officials were involved in corruption. There is a widespread awareness of injustice in the legal system and dissatisfaction with the way senior government officials perform their duties. The IPF study also revealed that opportunism, distrust and the belief in widespread corruption are more frequent in larger, urban and socially and culturally more developed surroundings with easier access to information and a higher than average level of information. The fact that opportunism and distrust in institutions are more pronounced in younger rather than in older respondents gives cause for alarm. It opens the possibility that the non-compliance associated with the unofficial economy and corruption may have considerable durability.

During 2001, the IPF went on with the previous research and started a new chapter in the investigation of the informal economy in Croatia. Both pieces of research (that from 1996 and that from 2000) were financed in part by the Ministry of Finance. The measurement of the informal economy at the level of the economy as a whole was done through the national accounting discrepancy method, monetary methods, an adapted Eurostat method, and estimates of tax evasion, and an assessment of the informal economy in certain economic sectors: agriculture, industry and commerce, tourism and foreign trade. Based on the national accounting method for the 1996-2000 period, the informal economy has been estimated at an average of 10.4%. Such results seem fairly logical, because in the earlier period Croatia had the war, hyperinflation, the beginnings of the transitions and reform, and in the second period stabilisation and the strengthening of the legal system. Other methods gave different results, but there is no huge discrepancy.

Although it can really be expected that the level of the informal economy in Croatia has to a certain extent decreased, providing a more significant level of economic growth was achieved, a more important fact is that its structure and phenomenology will change as well. If one compares the results from 1995 and 1999, one will notice that the level, in both diffusion and intensity, of opportunism has decreased. The number of those who think that tax evasion and corruption can never be justified has doubled. But the fact still is that 46% of respondents were prepared in certain circumstances to tolerate these phenomena; the age structure of opportunism has remained unchanged – the youngest age group is still most apt to justify tax evasion and taking bribes. This gives ground for concern because it suggests the phenomenon might be long-lived; distrust in institutions has increased, and is once again most pronounced among the young, which is dangerous; economic traditionalism has ceased to be a relevant factor; this is something good at least, and people are after all getting used to differences in wages and so on. The growing number of transfer recipients and the shrinking number of contributors has led to higher taxes on labour. Workers receive only about a half of what it costs a firm to employ them, a larger differential than in other European countries, making labour more expensive as a factor of production. In addition this generally high tax burden has pushed economic activity underground, contributing to corruption and higher rents (World Bank, 2001a).

The government policy toward the informal economy is not consistent enough. According to the circumstances and situation, it vacillates between varying attempts to make it completely illegal and a policy that would (tacitly) tolerate the informal economy. The efforts undertaken by the government are not commensurate with the gravity of the problem and there is a lack of determination to confront and to limit the informal economy and to root out corruption.

### 5.3. Barriers to business

The Investment Promotion Act (*Zakon o poticanju ulaganja*, NN 73/2000) regulates the promotion of investments by domestic and foreign legal or natural persons with the aim of stimulating the economic development of Croatia, its integration into international trade through the increase of exports and the competitiveness of the Croatian economy. Investment promotion comprises incentive measures, tax and customs benefits. Benefits may be given only to newly established companies registered exclusively for the activities that they may be granted tax and customs benefits for. Specifically, if an investment in tourism is concerned, an existent company may be the beneficiary of incentive measures or benefits. Incentive measures are divided into three groups. The first group includes: leasing, granting of construction rights and sale or usage of real estate or other infrastructure facilities owned by the Republic of Croatia, local government or self-government units under commercial or favourable conditions, including or without a fee. The second group of incentive measures refers to assistance granted for the creation of new jobs. The third group comprises incentive measures related to assistance granted for vocational training or re-training. The various authorized state administration bodies, utility companies and other institutions are obliged to provide decisions on consents, permits, certificates or other documents within 30 days of the submission

of the outline planning permission application; otherwise, the City Office is empowered to take the decisions.

The operating environment, including the new Customs Code, did not pose significant administrative challenges, and Croatia compares well with leading countries in Eastern and Southeast Europe. On the other hand, the process and requirements for acquiring entry visas and work permits – many investors' first encounter with the country – are unnecessarily complicated and burdensome. Also, the process of acquiring land, registering it and building new premises is fraught with difficulty for investors. Although these issues clearly entail a long-term agenda, Croatia needs to take immediate actions where possible to improve its performance. According to the expert analyses (World Bank, 2000), the greatest barriers to business (which opens up the possibility of corruption) are created by the lack of detailed zoning plans (beginning with key areas) and mostly due to that complicated procedure for obtaining building permits. The quality of zoning plans varies considerably across the country. As things stand, the absence of clear zoning plans in some areas creates opportunities for corruption and confusion amongst investors. Where detailed zoning plans do not exist, local governments need to prepare them, beginning perhaps with areas most likely to be attractive to investors.

## 6. Political parties

Controlling fraud, corruption, and unfair practices is a fundamental objective of any system of regulating political parties and candidates. When an election has been held, it is essential to ensure that the citizens at large, whether they have supported the winning or losing parties and candidates, should have faith in the integrity of the process. Serious electoral fraud, corruption, and unfair practices bring the reliability of the electoral process into question. They thus undermine democracy itself (Pinto-Duschinsky, 1997). The activity of political parties in Croatia is regulated by the Law on Political Parties (*Zakon o političkim strankama – NN 76/93*). The Law in Part III, Articles 18-22 contains the regulations about the funding of political parties. Article 18 deals with possible funding sources of political parties: membership fees, voluntary contributions, revenues from publishing activities, revenues from advertisement goods and the organization of party events, subsidies from the state budget and the budgets of local self-government units, profit of firms in party ownership. The following Article states that a party whose candidates are elected to Parliament receives on the one hand a fixed amount for its functioning, and on the other hand, a variable amount that depends on the number seats it holds. The sources for the functioning of political parties are distributed by the Parliamentary Committee for Election, Appointment and Administrative Affairs (*Odbor za izbor, imenovanja i administrativne poslove Hrvatskog sabora*). Public disclosure of a party's revenues is regulated by the other Articles. First, Article 20 regulates that the parties have to publicly disclose the source and purpose of moneys collected during the year. Article 21 determines that if parties do not record their revenues in adequate bookkeeping, or if they receive revenues against the law, they lose the possibility of receiving a subsidy from the central government budget. According to the next Article, book-keeping must be in line with the rules applied to non-profit legal entities. At the end, with the final Articles of Part III of the Law, it is determined that each year the

political parties that receive subsidies from the central government budget have to provide Parliament with a financial statement for the previous year. This financial statement will be checked by the State Audit Office.

In comparison with regulations in many other countries, especially in the industrially developed countries, the regulation of the funding of political parties is almost completely undeveloped. The sources of political parties' money, the ways and means of its spending, and regulation of the control over spending are not clearly determined. Everybody is finding his/her way and solution according to their knowledge and capabilities. In the Croatia the current situation is very similar to the situation in the industrially developed democratic countries in the 1960s and 1970s, when they began with the introduction of the public control of the funding of the political parties. The organization of political life and parties in the *Croatian way* is full of inconsistencies and loopholes, so the general public can witness extremely frustrating political incapability and instability, while the unregulated system of political party financing enables the political and material corruption of elected politicians. Nevertheless, the Croatian system does have some advanced traits, like, for example, the provision for regional and local government bodies to be able to fund political parties. This statement is plainly regulated, and like that in Sweden, but is not so common in other countries. It reduces the danger of local party leaders being dependent on national party leaders, so it is in principle a contribution to the democratisation of political life. It is not surprising that political life in Croatia is burdened with different suspicions and conflicts of interest, and that rare are the politicians who can *allow* themselves consistency, respect for principle and the protection of the public interest of their constituency. This completely biased and deformed political praxis can be changed only with structural changes in the political and organizational framework (Ivanković, 2001). Due to this, Croatia is confronted with a serious obligation to introduce the multifaceted regulation of the funding of political parties, which could enable the establishment of a situation similar to that in developed European countries (Petak, 2002).

To secure a just and equal position for all political parties in Croatia and to secure objectivity and justice in the implementation of political programmes, a reform of the legal status of political parties in Croatia is necessary. The financing of political campaigns has proven to be one of the major weak spots in creating a transparent society around the world. TI Croatia is demanding that the regulations for political party financing are tightened. Public debates have been initiated by TI Croatia to speed up and improve the process of reforms.

A group of Croatian legal and political experts in co-ordination with the Croatian Legal Centre has begun to work on propositions for changes to and radical improvements of the Law on Political Parties. They propose three different sources of funding for political party financing: first for social activities, second for staff education and third for electioneering, which would be under the full control of the general public. It is expected that the Amendments to the Law will be discussed and accepted in the Parliament. Unfortunately, the Draft of the Amendments to the Law (or new Law – it is still not clear) does not contain any directive regarding many of the problems of political life (for example, political party accounts – availability to the public, including obligation to

disclose), as well as the legal regulation of lobbying, so there are no regulations and/or limitations.

## *7. Civil society and the media*

### *7.1. Citizen's associations*

Corruption is a major inhibitor of democratic development when it is prevalent at the highest levels of government. Bribery is used to neutralize parliamentarians and other leading politicians who are elected to represent ordinary people and to act on their behalf. Intimidation, violence, and murder suppress many of those who want to act in an honourable way and raise their voices against corruption. The most important and crucial issue is public awareness-raising, primarily through NGOs like TI-Croatia. There are plans to inform the public through leaflets, brochures, appearances of the members in the media and, notably, the organization of a major press conference at which distinguished persons from Croatian public life would be present as supporters of the TI. The mission of the fight against corruption should be known to every citizen and adequate NGOs should become an indispensable factor in public life.

The Croatian Government Office for Cooperation with Non-Governmental Organizations was established in October 1, 1998, with the goal of establishing confidence and promoting cooperation between the government of the Republic of Croatia and non-governmental organizations operating in the country as two essential prerequisites for modernization and the development of civil society in Croatia. In order to democratise the relations and make its work transparent, the Office has introduced a model of solicitation for tenders to provide financial support for NGO programmes, published the results of the tender and organized other important activities. One of the goals of the Office is to help any NGO that will deal with the fight against corruption.

In the year 2000 Transparency International Office Croatia was founded and one could be proud of the development it has made over this period. TI Croatia is preparing promotional leaflets and materials to explain briefly the notion of corruption, the mission of TI and suggest how every individual can help in its activities. TI Croatia has free-phones where citizens can get information whom to report the cases of suspicious to corruption. Office experts have drafted law proposals (for example, Conflict of Interest Law), they have established contacts with governing and public bodies, with the international community as well as cooperating with similar NGOs (Association for Democratic Development – news on the road project and a TV show on national television). TI Croatia is also very active in Access to Information Law, researches on Corruption, Citizen's Hot Line, National Integrity System, Ethic in Judiciary and Increase Accountability. This all was and still is very important for this organisation and for the Republic of Croatia. The continuous positive movement of Croatia on the Corruption Perception Index illustrates this rather well.

A Regional Conference on Civil Society was organised by SPAI on 17-19 September, 2001 in Cavtat, Croatia. It brought together representatives of local civil society organisations, including media, businesses and trade unions, senior officials of participating countries, donor countries, as well as most of the major international NGOs and bi-

lateral agencies having technical assistance programmes related to anti-corruption issues and civil society. The main objective of the conference was to involve local civil society organisations, international NGOs and donors in a constructive dialogue and co-operation and to fully engage them in SPAI activities. The objectives of the conference were: 1) to discuss the involvement of civil society in the fight against corruption in countries; to this end, the US Government is currently holding consultations with local civil society experts in order to prepare an assessment report to be examined at the conference; 2) to address good practices in terms of patterns of interaction between the government and civil society organisations, including trade unions, business associations and media, and to share experience and ideas on formulating anti-corruption measures applicable to SEE countries; 3) to discuss the funding of specific projects for strengthening the involvement of civil society in the fight against corruption.

Among many other existent weak points in Croatia there is the lack of a Freedom of Information Act, which urgently needs passing. The drafting of a law on Freedom of Information, foreseen in the Transparency Croatia action plan, has been completed and a series of seminars are being organised by TI-Croatia on corruption and the role of the media to raise public awareness and strengthen media involvement in the fight against corruption.

### 7.2. Media

The multiparty system, democracy and the fall of former socialist political regimes have brought a kind of liberalization for most print and electronic media. On the one hand, numerous lively, independent, private print media started to increase circulations, capturing the market; at the same time, the highly influential electronic media are still in the hands of the ruling parties or coalitions in almost all transition countries, and the term “public radio and TV stations” is used instead of the term “state run radio and TV”. In their competition for readers, strengthened by the survival instinct, the editors of weeklies and/or some dailies have resorted to certain always-timely journalistic practices in presenting reality. Such practices are far from the professional standards of decent journalism and ethical norms and codes, careless of the protection human dignity, far from facts – and, finally, close to untruth. The use of long headlines (for example, even more than 29 words), “fast investigative journalism” with numerous unchecked facts, stories that have nothing in common with the headlines, all these are a product of new democracy that followed the fall of communism. The media scene split into two parts: one part in which most media were completely under government control and thus supportive of the ruling party, and the second part that featured a few media in opposition to the HDZ (in power in the previous Government). The first group of media comprised almost all the national dailies, Croatian Radio and Television and some weeklies; the other group of independent media were represented by the weekly *Feral Tribune*, the monthly *Arkin* and the daily *Novi list*. In between these two main groups were the strong independent weeklies *Globus* and *Nacional*. The owners and editors of these weeklies started a new trend in Croatian journalism – sensationalism, exclusive news, and the so-called “fast investigative journalism”. *Globus* and *Nacional* both became very popular because they both published sensational news from political life and



uncovered numerous cases of corruption. These two privately owned magazines have been publishing stories based mostly on “sources close to government” or “sources that wanted to stay anonymous” or gossip. Their circulations are still pretty high, somewhere between 70,000 and 90,000 copies each. Under present conditions – the battle for circulation, an unshaped public opinion, and the lack of a civil society – it is impossible to expect real investigations. It is better, then, to use the terms *fast investigative journalism* and sensationalism (Vilović, 2001). Probably due to the rigid Tuđman political system in the last ten years, the journalists of the independent newspapers practiced a journalism similar to that of their colleagues in the controlled press (Malović/Selnow, 2001). These authors believe that the Croatian journalists who worked for independent weeklies offered one-sided stories and looked for a chance to attack the ruling party by investigating their misdeals, scandals and failed decisions.

Readers mostly believe the mass media and the many articles about corruption, but the effects of these investigations have been almost negligible. Nothing serious in Croatia ever happened after any sensational story on corruption in the former Croatian government, none of the highly positioned politicians has been under any real pressure of public reaction, after the published story, to leave his or her post or well paid state job. Very often anonymity of sources and some evidently unchecked facts ruined the entire effect. In short, there has been a shortage of quality journalism. But, it is also true that numerous facts have been publicly revealed to the people about the dirty jobs and corruption in the Croatian state during the Tuđman period. At the elections on 3 January 2000, the former Government lost its political power. The media surely helped in this historical change. The media situation in Croatia has changed a little bit after the change in government after the election in 2000. Still, Croatia is faced with similar approach to fast investigative journalism, but instead of the numerous state media from the Tuđman era, now there is only the most powerful state medium – Croatian Television. At the moment, Croatian Television is passing through the painful and slow process of transformation into a genuinely public television. Actually, Croatian Television has a monopoly among the electronic media: there is no single other strong television able to compete with it.

### 8. Conclusion

Since the corruption and informal economy develop primarily from the interaction between state and economy, in Croatia they will be closely connected with the political and economic, as well as with the social and political characteristics of the state. Is government, then, going to be liberal, professional, competent and “small”? Or is it going to be corporate, paternalistic, filled with corruption, nepotism and incompetence, as well as “big” and wasteful? Or will it be something else entirely? Lasting contours of the relation between politics and economy, as well as between state and market in Croatia, are being established in collective political choices made by the numerous actors in the process of transition. They also establish the structure of opportunities, motives, costs and benefits from participating in the corruption activities. The engagement of the state in large projects is a poor substitute for private investments. Growth based on state in-

vestments and/or subsidies encourage rent seeking and corruption. If the state is also wasteful, one can expect a relatively high level of corruption.

It could be estimated that in Croatia there is a satisfactory legal framework for effective battle against the corruption, but there is an obvious lack of coordination between the different bodies engaged in that process as well as weak enforcement of existing laws. Although it could be wrong to deny some obvious positive and encouraging steps, many weak points still exist and the necessity to take further actions is obvious. This includes a series of measures, including the creation of the Freedom of Information Act, improvements in public services (especially clearly determination of competence and responsibility of public servants and their ability to make discretionary decisions), reforming the legal framework for financing of political parties, and demanding a more transparent public bidding process.

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