

Enlargement Goes Western Balkans:

Croatian Institutions in Time

Sluggish Institutional Evolution, Resilience and Shallow Europeanisation

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Abstract

The overarching focus of this thesis is the institutional (and policy) consequences of European integration for the Republic of Croatia. So far, most research on ‘candidate Europeanisation’ has focused on the impact of EU conditionality on the domestic polity, politics, and policy domains of the post-communist countries of Eastern Europe. This study extends candidate-state Europeanisation research further to the South-East corner of the continent. Unlike the other Western Balkan states, Croatia is very close to concluding its entry talks and hence becoming the 28th EU member-state. Yet Croatia’s bid for EU membership has been the most challenging, draconian and uncertain in the history of EU enlargement. The time is thus ripe for an appraisal of the EU’s impact on Croatia’s institutional context. The present study employs a historical variant of rational choice institutionalism in politics, answering acclaimed scholars’ call for more ‘pluralist’ theorising in social sciences in general, and more explicit, history-sensitive and time-oriented theorising in Europeanisation research in particular. In this study, the historical perspective - encapsulated in the notion of ‘institutional evolution’ - helps make sense of the processes of ‘politicisation’, ‘resilience’ and ‘institutionalisation’ which have thus far been neglected in writing on ‘candidate-state Europeanisation’. The present study inquires into four Croatian institutions and two policies: civil service, administrative procedures and justice systems, and territorial set-up, as well as regional policy and decentralisation. In terms of research design, a ‘bottom-up-down’ framework is employed here, aiming at providing a ‘rounded’ explanation of the phenomenon of domestic institutional development under EU conditional incentives. Overall, both the historical and empirical chapters suggest a ‘sluggish’ pattern of institutional development in Croatia, persisting resilience to change and therefore ‘shallow’ Europeanisation effects. That being said, the present study exposes the limits of the transformative power of the EU.

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Dedication

*To my mother who never give up on me and to my father who taught me
to be proud and decent.*

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Author's Declaration

I hereby declare that this work contains no materials accepted for any other degrees in any other institutions. This thesis contains no materials previously written and/or published by another person, unless otherwise noted.

1

Introduction

1.1. Enlargement Goes Western Balkans

For almost five decades the Iron Curtain divided Europe into two distinct regions, preventing the free movement of people, ideas and goods between them. In 1989 a rather accidental chain of events in Central-East Europe (CEE) led to the removal of the Iron Curtain. The third global wave of democratisation had just begun (cf. Huntington, 1991). Unlike the previous two, however, the third wave of political pluralism and free market enterprise was marked by the active role of international institutions in that region. International organisations (IOs) such as the European Union (EU) and North Atlantic Treaty Organisation (NATO), both guardians of the liberal order, ‘were poised at the outset of the transition to provide advice, assistance, and, ultimately, membership’ (Epstein, 2008: 1). Thus the CEE countries (CEECs) found themselves under foreign direction (most notably that of the EU) when creating and consolidating their new institutions, public policies and normative frames. But to gain the entry ticket the CEECs had to implement a complex and demanding liberalisation agenda. In fact, membership of the EU (and NATO) was conditional on governments convincing Brussels that they had consolidated democracy and capitalism in their countries. Not surprisingly then, the so-called eastward

enlargement of the EU to include eight former communist CEECs in 2004,¹ and the laggards Bulgaria and Romania in 2007, has been seen by many specialists on the region as ‘the Union’s most challenging and complex enlargement so far’ (Dimitrova, 2004b: 1; see also, Grabbe, 2001, 2006; Kelley, 2004; Jacoby, 2004; Schimmelfennig and Sedelmeier, 2005a; Goetz, 2005; Epstein, 2008). With the accession of the new EU10, Europe now seemed unified.

Yet, at its south-eastern edge the so-called ‘Western Balkan’ states (former Yugoslavia save Slovenia plus Albania) were yet to complete their ‘journey back to Europe’. In contrast to the integration dynamics marking European politics since the late 1980s, the Western Balkans experienced sustained moves towards ‘Balkanisation’ (cf. Todorova, 1997), including violent territorial fragmentation of the so-called wars of ‘Yugoslav succession’ in the early 1990s. Armed conflicts broke out in Croatia in 1991, in Bosnia and Herzegovina from 1992 to 1995, in Serbia and Kosovo in 1999, and serious ethnic rebellion occurred in the Former Yugoslav Republic of Macedonia in 2001. Albania also experienced civil violence after the collapse of a number of pyramid savings banks in 1997. In 2006, Montenegro declared its independence from the state union with Serbia, following a peaceful referendum whereas, when Kosovo declared independence on 17 February 2008, the Serbian President Boris Tadić noted that ‘Serbia will never recognise the unilaterally proclaimed independence of Kosovo’. Thus, for many the Western Balkans consisted of ‘frustrated societies’ and/or ‘weak states’ (Krastev, 2002) with inherent proclivities towards backwardness, violence and instability. The Republic of Croatia is one of these ‘Western Balkan’ states that only belatedly embarked on its own transformation and European integration path.

It is not by accident that most research on Croatia (whether as a case study or within cross-national comparative analyses) has been preoccupied with such issues as the collapse of the federal Yugoslavia, the independence of constituent republics and its consequences, nationalism, war, history, development of ethnic identities, conflict resolution and the role of international community in peace-keeping. This is quite understandable as the pressure of the actual events necessitated an increasing scientific focus on the peculiar processes

¹ The eight former communist countries that gained EU membership in 2004 are Slovenia, Hungary, Poland, Estonia, Latvia, Lithuania, Slovakia, and the Czech Republic.

related to the bloody breakdown of the federal state and Croatia's subsequent secession from Yugoslavia. Nevertheless, because of this, literature on post-communist transformation in Croatia is 'not very impressive' (Čular, 2000: 31). Indeed, with few notable exceptions (cf. Kasapović, 1996; Kasapović and Zakošek, 1997; Zakošek, 2002) there has been very little systematic political science research on the Croatian post-Yugoslav political system, let alone the institutional evolution of Croatia's domestic institutions over time. It is hoped that this thesis will contribute to a better understanding of the patterns of institutional development in Croatia by exploring the evolution of four polity-structures (civil service, administrative procedures and jurisprudence systems, and territorial set-up) and two policy-areas (regional policy and decentralisation) over extended periods of time (in particular from the early twentieth century).

At the same time, research on the effect of foreign organisations in general, and the EU in particular, in Croatia's post-communist institutional development is in its infancy². In the early 1990s, the country seemed on a fast-track to the EU compared to other former communist states of Eastern Europe. But the war and the subsequent authoritarian regime of President Tuđman explains by large the country's poor engagement with European integrations in the 1990s. Though EU-Croatian relations date back to the early 1970s, the country gained a contractual relationship with the Union only in 2001 for reasons to do mainly with its strong authoritarian proclivities and poor cooperation with the international community on the issues of refugee return and International Criminal Tribunal for Yugoslavia (ICTY). In 2004, Croatia moved from 'a potential candidate state' to a 'candidate state' and in 2005 accession negotiations were opened following a positive report by the then ICTY Chief Prosecutor Carla Del Ponte on Croatia's 'full cooperation' with The Hague. Unlike the other Western Balkan states, Croatia is very close to concluding its entry talks and hence becoming the 28th EU member-state. Yet, Croatia's bid for EU membership has been the most challenging, draconian and uncertain in the EU's history of enlargement. The time is thus also ripe for an appraisal of the EU's impact on Croatia's institutional context.

A host of important studies look at the effect of the EU on member-states using the term 'Europeanisation' as shorthand for 'domestic impact of the EU' (cf. Sedelmeier, 2006: 4).

² There are, however, a few exceptions: see Fisher (2006) and Jovic (2006, 2009).

Only recently, the concept of Europeanisation has been extended to cover the impact of the EU on countries seeking EU membership. Most analysts agree that the domestic impact of the EU on non-members has two distinctive characteristics (cf. Grabbe, 2001, 2003, 2006; Schimmelfennig et al. 2003; Kelley, 2004; Jacoby, 2004; Pridham, 2005; Schimmelfennig and Sedelmeier, 2005c; Vachudová, 2005; Schimmelfennig, 2005; Héritier, 2005). First, it operates within a highly asymmetric power environment as non-members seek accession. This ‘asymmetric interdependence’ (Vachudová, 2005) allows candidate states a limited scope or none at all for projecting national preferences and interests at the EU level. Indeed, the term ‘accession negotiations’ is in many respects a ‘misnomer’, as in the case of eastward enlargement ‘there was very little left open to negotiation beyond the odd temporary transitional arrangements (derogation) (Haughton, 2007: 235).

Second, the status of candidates as non-members has significant implications on the instruments used by the EU institutions to induce domestic change or institution-building. In particular, the study of the EU’s conditionality (the credible conferral/withholding of positive rewards - ultimately EU membership - in exchange for compliance) in the context of eastward enlargement has started to frame ‘Europeanisation’ analysis in candidate states (cf. Sedelmeier, 2006). With some exceptions (cf. Hughes et al. 2004; Brusis, 2005), most studies in this growing literature tend to emphasise the transformative power of the EU (cf. Schimmelfennig and Sedelmeier, 2007; Grabbe, 2003; 2006; Jacoby, 2004; Kelley, 2004; Pridham, 2005; Schimmelfennig et al. 2006). This thesis also aims to contribute to a better understanding of the transformative governance of EU enlargement beyond CEE, drawing attention to a Western Balkan state, Croatia.

Too often, however, we lack evidence on crucial issues. For instance, how strongly have EU rules and conditions been contested by the domestic setting and actors? Why has EU imposition, more often than not, resulted in cosmetic changes and a shallow notion of impact where patterns of ‘institutionalisation for reversibility prevail’ (Goetz, 2005)? What accounts for ‘domestic adaptation with national colours’? With notable exceptions (cf. Hughes et al. 2004; Brusis, 2005; Grabbe, 2006), most research on CEE and South-East European (SEE) post-communist institutional development under EU direction has paid little attention to the ‘politicisation’ (cf. Radaelli and Pasquier, 2007) and ‘institutionalisation’ stages of candidate emulation and/or adaptation. Indeed, most guiding

questions within theoretically-informed studies of ‘candidate-state Europeanisation’ boil down to one main question: ‘under what conditions is the EU’s influence effective’ (Sedelmeier, 2006: 8). In this context, scholars enquire, first, into the extent to which the EU has a domestic impact. Second, they ask what factors account for this (lack of) impact, focusing on different EU strategies and mediating factors.

In terms of research design, most scholars employ ‘top-down’ explanatory models with the conditionality argument placed at the core of their study. Unlike available ‘top-down’ accounts of the conditionality-centred Europeanisation, the present study pays particular attention to the way EU stimuli have been ‘enmeshed’ and processed by Croatia’s existing institutional context and actor configurations. This study contends that a comprehensive explanation of the process of domestic institutional evolution under EU direction needs to take seriously into consideration the domestic context with its particular actor constellations and institutional legacies. This ‘bottom-up’ approach is all the more important in the context of post-communist transformation where ‘Transition’ and ‘candidate Europeanisation’ scholarships have thus far run parallel to each other without any coherent attempt to reconcile themselves (see Dimitrova, 2004b; Hughes et al., 2004; for notable exceptions). In transition scholarship the process of post-communist polity-design hinged heavily on internal forces, such as the mode of regime expiration, a country’s material and cognitive legacies inherited from the withering regime and to a certain degree the contingency factor of agency at the critical moments of transformation (Elster et al., 1998). In candidate Europeanisation scholarship, on the other hand, this ‘shadow of the past’ does not seem to influence significantly the outcome of the EU-candidate state interdependency and its transformation. Bearing that in mind, domestic factors appear as conditioning only the timing and pace of EU-induced reforms, but not the likelihood of adaptation (Schimmelfenning and Sedelmeier, 2005c). Overall, while Europeanisation provides for the potentially ‘colossal transformative power’ of the EU (Grabbe, 2006), the conceptual framework put forward by ‘Transition’ research helps make sense of how, when, and under which conditions reform occurred, defining what sort of change (if any) we can discuss. In this respect, a sustained focus on both external and domestic change stimuli is needed to compensate for the inherent limits of both literatures.

To that end, this study adopts a ‘bottom-up-down’ (cf. Vink and Graziano, 2007) framework, tracing patterns of adaptation by first enquiring into the domestic institutional priors and systems of interaction, then ‘climbing up’ to the European level to establish the European demands in each particular area, and finally descending downwards to gauge the outcomes of Europeanisation in light of Croatia’s domestic idiosyncrasies (cf. Radaelli and Pasquier, 2007). As indicated by Vink and Graziano (2007: 9-10), ‘such a ‘bottom-up-down’ design is probably the only guarantee, if any (cf. Haverland, 2005), of due consideration of the European factor as one of several alternative explanations’. In so doing, this study problematises the relative significance of IOs other than the EU, such as the IMF, the World Bank, and the Organisation for Economic Co-operation and Development (OECD) to conditioning domestic change in Croatia (cf. Anderson, 2003). Overall, this ‘bottom-up-down’ approach is a relatively new development in the theoretical literature on Europeanisation in general terms, and is in its infancy when it comes to candidate Europeanisation literature. Part of this study is about exploring the utility of this approach in the field.

Finally, given that at the core of this study is the examination of the effects of Europeanisation on national *institutions*³, New Institutionalism (NI) seems a suitable approach for underpinning the theoretical analysis developed here. In linking ‘candidate Europeanisation’ to NI, this study combines particular elements of rational choice institutionalism (RCI) and historical institutionalism (HI) (see Chapter 3), answering Bulmer’s (2007, 2009) call for more explicit HI theorising in Europeanisation research (cf. Radaelli and Pasquier, 2007). Significantly, this study does not present a theory of institutional development under EU direction; rather, in this study, the HI perspective - encapsulated in the notion of ‘institutional evolution’ over time - helps make sense of the processes of ‘politicisation’ (Radaelli and Pasquier, 2007), ‘resilience’ (Pierson, 2004) and ‘institutionalisation’ (Olsen, 2000) which have thus far been neglected in writing on ‘candidate Europeanisation’ (cf. Sedelmeier, 2006). Whilst many HI accounts point to the ‘resilience’ of institutions once established and the significance of ‘path-dependence’ in institutional development (Pierson and Skocpol, 2002: 696-703), institutional adaptation is endemic in political life. Having said that, the role of agency is seriously considered here

³ Following Paul Pierson’s (2004: 165-66) proposition the present study treats public policies also as ‘institutions’.

via actor-centred variables, such as strategies and interests. In research terms, this was the reason for the heavy focus on interviews, allowing the author to delve into how the actors in question (both nationals and foreign officials) perceived the process of Europeanisation and its consequences.

1.2. Research Questions

The preceding section has made the case for examining the impact of European integration on Croatia's institutional development over time. Against this background, the chapters are guided by a common set of empirical questions. These are modelled on an almost identical set of questions first elaborated within the Europeanisation literature by Featherstone and Radaelli (2003) and subsequently adapted by Dyson and Goetz (2003a: 34-35) and Bache and Jordan (2006a: 31). This study draws also from the studies on conditionality of Jacoby (2004), Hughes et al. (2004), Schimmelfennig and Sedelmeier (2005b) and Grabbe (2003, 2006). In this way, this thesis aims to contribute to the conceptual debates on Europeanisation in general and to the empirical stock of knowledge about the effects of conditionality in Croatia in particular. This approach also enables comparison with the finding of these other studies. In particular, five questions are posed:

- What has been affected by Europeanisation and to what extent?
- Has each part of the Croatian institutional (and policy) context been equally/similarly affected by EU inputs or are some areas more Europeanised than others?
- What factors explain the domestic response to Europeanisation incentives/pressures?
- When has Europeanisation occurred and in what sequence?
- Is Croatia's pattern of compliance with EU institutions and policies similar or different to that found in the other candidate and 'old' member states?

1.3. Cases, Methods and Data

Country selection

Although investigating the domestic impact of European integration in the 'Western Balkans' region could involve more than one country, the analysis will be limited to a single country, Croatia. According to George and Bennett (2005: 19), single case studies combining 'within-case analysis' and 'cross-case comparisons' have been recognised as rewarding methods of social science inquiry for the following reasons. First, when

compared with large-N studies, they have a greater potential for achieving high conceptual validity. Second, single case studies possess stronger procedures for fostering new hypotheses. Third, single country studies examine more closely the hypothesised role of causal mechanisms in the context of individual cases. Fourth, single country studies possess greater capacity for addressing causal complexity. Like other single case studies, this thesis was primarily interested in identifying the conditions under which effective EU rule transfer (or lack of) occurred, the mechanisms involved and the scope of domestic rule institutionalisation took place. It was less concerned with uncovering the frequency with which those conditions and their outcomes arise, as is sometimes the case with large-N studies (George and Bennett, 2005: 31).

But why the Republic of Croatia? Croatia represents a critical test case or benchmark for the stabilisation qua transformation and democratisation hypotheses of Europeanisation in the context of the war-torn ‘Western Balkans’. The EU’s enlargement policy towards the Western Balkans, that is, the Stabilisation and Association process, and the subsequent commencement of the accession negotiations with Croatia in October 2005, rendered Croatia a ‘most-likely’ case in relation to ‘candidate-state Europeanisation’. According to Eckstein (1975) ‘most likely’ cases are tailored to cast strong doubt on theories if theories do not fit the cases under investigation (cited in George and Bennett, 2005: 119). If the following case studies show significant domestic impacts as a result of the EU conditionality, then this would confirm that the EU’s credible membership incentives have ‘teeth’ even in challenging post-war environments. Thus, the Croatian case will strengthen support for theories of ‘candidate-state Europeanisation’ that predict *formal rule adoption* in exchange for EU membership. Either way, in the light of a ‘bottom-up-down’ analytical framework, the Croatian case will provide important causal insights, whether it tends to validate or falsify the dominant ‘conditionality-centred Europeanisation’ hypothesis.

Case selection

The unit of analysis chosen is the Croatian polity, i.e., state administration (civil service, administrative procedures system, administrative justice, and territorial organisation) and two policy areas (regional policy and decentralisation) to account for variation in the unit of analysis as Europeanisation studies suggest that public policies are more malleable to EU pressures than polity structures. According to George and Bennett (2005: 179), ‘the

results of individual case studies, each of which employs within-case analysis, can be compared by drawing them together within a common theoretical framework without having to find two or more cases that are similar in every respect but one’.

All case studies reflect variation with respect to the nature of the main mechanism of EU influence (i.e., conditionality). The extent to which EU stimuli are relevant to domestic choices varies across and within the sectors. Thus, conditionality is assumed to be ‘thin’ (limited reliance on *acquis communautaire*) in the case of civil service, regional policy and decentralisation and ‘thick’ (*acquis*-based requirements) in administrative procedures and jurisprudence systems as well as the case of the NUTS division of the country. The strength of such an approach is that it allows the analyst to check whether the nature of conditionality has affected the final outcome and, in so doing, to indicate its relation to the domestic factors assumed to mediate EU pressures. Finally, domestically, the three sectors (public administration, administrative justice, and regional policy/territorial-administrative division) comprise both distinct and common actors and processes. In effect, all these sectors pose tests of the will and capability of the national government (and state administration) to deliver on a modernisation agenda to which it has been committed since the regime change in 2000. That said, the potential strengths (or limits) of the still in-flux Croatian polity are being put to the test. Approaches to Europeanisation highlight the potentially transformative power of the EU, the susceptibility of domestic factors and actors to its ‘colossal’ disciplinary power, and its institution-building and reform capacity. A complementary approach – based on the post-communist ‘transition’ literature – highlights the state of flux of transitory societies/polities, the causal weight of ‘critical junctures’, the mix of past and new arrangements and their potentially conflictual relationship that engineers incentives for reform, as well as highlighting the limited ability of the domestic state administration to plan, formulate, negotiate/legitimise, implement and evaluate strategic programmes of modernisation. In this respect, the problem of governability of the modern Croatian state is contrasted with the ability of the EU to manage and implement a programme of modernisation qua ‘member-state building’ in the Western Balkans.

Periodisation

In its effort to account both for temporal variation across different stages in the process of integration and the particular stage of domestic (institutional) development, this study employs a longitudinal methodology or *periodisation* of EU rule adoption in Croatia. Extreme care must be paid in locating the precise ‘starting point’, ‘tipping point’ and ‘end’ in the history of the sequence of the events in question (Büthe, 2002). This is best achieved by separating a single longitudinal case – in this study Croatia’s institutional development – into two sub-cases (George and Bennett, 2005: 166).

The ‘tipping point’ demarcating Croatia’s case of institutional development in a ‘before-after’ configuration is the years 2000-2001, in which the negotiation and signing of the EU-sponsored enlargement framework of the Stabilisation and Association Agreement (SAA) took place. In this respect, time is divided roughly in two temporal blocks: (i) the pre-2000 or pre-enlargement period (pre-communist, communist, and post-communist) and (ii) the post-2000 or enlargement period (the associational and accession stages; 2000-2010). The pre-2000 period is used here as a point of reference in setting the *historical context* (cf. Pierson, 2004) for the analysis of the effects of ‘Europeanisation’. The aim is to identify strongly embedded and historically validated institutions that are subject to external reform stimuli. Finally, a further temporal division is introduced in the post-2000 enlargement period in an attempt to distinguish associational (2000-2004) from accession-related (2005-2010) effects of ‘Europeanisation’. Such temporal demarcation allows the analyst to test whether getting closer to accession intensified and/or quickened the tempo of reforms and institutional development (cf. Schimmelfennig and Sedelmeier, 2007: 100). As such, time, although not a distinct variable in itself, ‘operates in the background to affect several explanatory variables in a variety of ways’ (Büthe, 2002: 486).

Process tracing

Process tracing refers to a qualitative ‘procedure of identifying steps in a causal process leading to the outcome of a given dependent variable of a particular case in a particular historical context’ (George and Bennett, 2005: 176). Given that social contexts are characterised by complex interactions and/or path dependencies (Pierson, 2004; Thelen, 1999, 2004), process tracing offers a unique tool in that it both narrows the list of potential causes and accounts for the sequence of events, some of which foreclose certain development trajectories and steer the outcome in other directions. Thus, the method

‘offers the possibility of mapping out one or more potential causal paths that are consistent with the outcome and the process-tracing evidence in a single case’ (George and Bennett, 2005: 207).

A final strength of the process tracing methodology is its capacity to contribute not simply to *testing* a theory, but to its further *development* by means of identifying causal processes not yet identified (ibid: 217). Process tracing also remains open to the possibility that ‘alternative theories and the causal processes they specify may be complementary rather than mutually exclusive’ (ibid: 218). This is because more than one theory may be consistent with the process tracing evidence. In this respect, multiple processes ‘may have contributed to the observed effect or even overdetermined it’ (ibid).

Process tracing is not, however, without its limits, the two main ones being: (i) data unavailability; and (ii) ‘equifinality’ (ibid: 222-223). As regards the former, when data is unavailable, process-tracing reaches provisional conclusions. Having said that, ‘the inferential and explanatory value of a causal path is weakened, though not negated, if the evidence on whether a certain step in the putative causal path conformed to expectations is simply unobtainable’ (ibid: 222). The second limitation relates to ‘conjunctural causation’ or ‘equifinality’, that is, the situation where the analyst is confronted with ‘more than one hypothesised causal mechanism consistent with any given set of process-tracing evidence’ (ibid). In such cases, the analyst faces the difficult tasks of disentangling alternative lines of causation and checking whether they form competing or complementary explanations, or whether one is causal and the other spurious. In this study, in situations of ‘equifinality’ (see the case of civil service reform) the author employs a careful narrative using terminology such as ‘contributing cause’ and/or ‘sufficient cause’, rather than the notion of ‘necessary cause’ with its certain causal implications in the sequence of events (ibid: 189; King et al. 1994).

Finally, this study does not aim for mere descriptive inference (King et al. 1994: 55-63), but for a causal description that provides empirical support for a theoretical argument, that is, *causal inference*. Thus, the primal goal of this study is *explanation*. Given the ongoing process of Croatia’s institutional development in the light of EU incentives, attempting causal inferences is not an easy task. Put simply, this study investigates a phenomenon ‘in motion’ where definitive end results are simply not available. In this respect, the author

acknowledges upfront the uncertainty of his causal inferences. Therefore, in line with King et al.'s (1994) proposition, the author will provide the reader with the best and most honest estimate of the uncertainty of his inference in each of the individual case studies.

Sources of data

The data identifying the conditions for and the forms of changes in policies and structural aspects were collected by means of in-depth case studies using intensive interviews and document analysis. Between February 2008 and September 2010, the author undertook numerous field trips to Zagreb, during which 41 interviews (see the appendix 1) were made, which included members of government departments, the national parliament, expert bodies, trade unions, as well as former ministers, high- and medium-level state officials, civil servants, academics, members of negotiation teams, EU Delegation officials in Zagreb, NGO members and foreign and domestic project managers. The interviews were conducted on a confidential basis and therefore, where requested, interviewees' anonymity has been respected in the narrative that follows. The 'snowball' phenomenon in elite-interviewing became a standard feature in the process of enlarging the initial list of interviewees. The uneven number of interviewees across the case-studies reflects in part the difficulties in getting access to interviewees. The interviews were taken in the form of detailed notes based on a semi-structured questionnaire and subsequently subjected to a qualitative interpretation in relation to the questions and propositions outlined in this study. The questionnaires, although different for each of the case-studies, included, however, some common questions in an attempt to secure the study's internal coherence and standardisation. In the light of new information acquired through time some questions were amended or incorporated in the questionnaires. Finally, in the process of designing the questionnaires previous empirical research was conducted in an attempt ensure an adequate degree of information for each of the case studies.

In regards to the content analysis of documents, both official and unpublished documents were used. The data on rule adoption for Croatia comes from an examination of National Programmes for the Adoption of the Acquis, Screening Reports, Progress Reports, the European Commission's Opinion, Accession Partnerships, OECD/SIGMA Assessment Reports on Croatia. Speeches and interviews of the relevant EU officials (e.g., European Commissioners, Head of the Delegation of the European Commission) and national

politicians (e.g. PM, President, MPs) were also taken into consideration. In addition, Croatia's Strategy and Negotiating Positions and documents were included and contrasted with domestic laws and implementation records in order to assess the extent of change both on paper and 'on the ground'. Domestic laws and Decrees as well as formal institutions were considered as the main manifestation of formal rule adoption at the national level. International Financial Institutions' (IFIs) reports and memoranda as well conference papers were also examined to unveil 'alternative incentives' for domestic reform. This approach helped the author disentangle the 'drivers' from their effects on domestic change. In addition, the insights gained from the aforementioned primary materials were cross-checked and contrasted with the information extracted by the elite interviewing procedure. Furthermore, English-writing newspapers, electronic magazines (e.g. 'Nacional' and 'Globus'), news web-portals (e.g. www.javno.com, www.hina.hr, www.seebiz.eu/en/, <http://daily.tportal.hr>) and journals ('Politička Misao', 'Hrvatska Javna Uprava') were consulted.

1.4. Limitations in data collection

The author encountered two main limitations in his effort to collect the relevant data: the language barrier and problems related to getting access to some key actors. First, the author's lack of knowledge of the Croatian language restricted to some extent his capacity for a thorough examination of parliament minutes, Croatian newspaper articles and trade union positions. This barrier also impeded the incorporation of discourse analysis or any other explanatory factors prized by sociological accounts of NI in politics. This is one of the key reasons for opting for a historical variant of RCI where the analytical emphasis is on observable material institutions and changes. The language barrier, however, did not obstruct the process of causal inference. Given that the vast majority of the related data was in English as it was related to the country's EU membership bid, the constraints were to large extent overcome by either English-based documentation and/or interviews transcripts. The second problem relates to the barriers raised in the process of elite-interviewing. For instance, in the 'civil service' case-study access to related state secretaries and/or assistant ministers was not granted for reasons related to either poor knowledge of English or secrecy. Finally, the researcher conducted no interviews in

Brussels. To compensate for this, the author interviewed members of the EU Delegation in Zagreb and subjected the relevant EU documentation to thorough qualitative analysis.

1.5. The structure of the study

The thesis contains eight chapters. Chapter 2 and 3 outline the conceptual and theoretical framework adopted in this study. Chapter 2 reviews and subjects a number of ‘encyclopaedic’ (Radaelli, 2004) and ‘systemised’ (Adcock and Collier, 2001) conceptions of the term ‘Europeanisation’ against John Gerring’s (1999) criterial list of concept formation in order to resort to a more sound and above all theoretically useful conceptualisation of the term that can legitimately underpin empirical analysis in the empirical Chapters 5, 6 and 7. Chapter 3 briefly reviews the three strands of NI (historical, rational and sociological) used by most research in this area, with special emphasis on their strengths and weaknesses as well as heuristics as these were employed in the Europeanisation debates. Answering Paul Pierson’s (2004) and Simon Bulmer’s (2007) calls for a more historically-oriented study in social sciences in general, and in Europeanisation in particular, Chapter 3 outlines a ‘pluralist’ theoretical framework in which particular elements of RCI and HI are seen as complementary to each other. Chapter 3 also reviews the two main (distinct) bodies of literature underpinning explanation on the post-communist patterns of institutional development in Eastern Europe: ‘Transition’ and ‘conditionality-centred Europeanisation’. It is argued that though both literatures have generated crucial heuristics to explain institutional reform, they tend to adopt opposing vantage points and thus miss a circular evaluation of the complex phenomenon of national institutional development under EU inputs. Therefore, combining them helps understand the impact of the EU on its post-communist candidate states, clarifying the conditions enabling or obstructing domestic adaptation to EU. Finally, this interactive framework also helps in evaluating the causal role sources of change other than the EU (domestic or foreign). Ultimately, the frameworks of ‘Transition’ and ‘conditionality-centred Europeanisation’ are broadening each other’s perspectives in a complementary manner⁴.

⁴ For a similar interactive approach to the study of Europeanisation see Featherstone and Papadimitriou (2008). These scholars combine member-state Europeanisation with the literature on the ‘varieties of capitalism’.

Chapter 4 examines the development of Croatia's relations with the EU, explaining the country's long, delayed and 'sluggish' journey back to Europe. It places particular emphasis on the anti-European discourse of President Tuđman in the 1990s, the corresponding displeasure of the EU, as well as the radical change in EU-Croatian relations following the downfall of nationalist rule in 2000. Chapter 4 also provides the reader with an extensive assessment of the EU's 'Western Balkan' pattern of enlargement governance, showing that Croatia's accession has been subject to the most challenging, tightest and relatively uncertain form of membership conditionality ever employed by the EU.

The main empirical analysis of this study is to be found in Chapters 5, 6 and 7. They examine, in turn, the impact of the EU on the domestic reform process in Croatia in three key sectors: civil service, administrative procedures and administrative justice, and regional policy/decentralisation. Part one in Chapter 5 provides a historical analysis of the development of the Croatian civil service. The second part examines reforms of the civil service system pursued in the post-2000 period under multiple foreign conditional incentives. Significantly, Chapter 5 presents a strong case of 'equifinality' regarding the drivers of domestic change. Chapter 6 examines the impact of the EU conditionality on Croatia's administrative procedures and justice systems. In particular, it investigates whether EU conditional incentives have succeeded in altering historically embedded structures and led to the establishment of a 'two-track' administrative justice apparatus and a modern administrative procedures regime in Croatia. Chapter 7 similarly analyses the institutional development of Croatia's regional policy and decentralisation patterns of governance over time. The second part analyses the territorial and institutional reforms which have taken place for the purpose of building a nation-wide regional policy in accordance with the EU and of absorbing the EU's structural and cohesion funds.

Finally, the conclusion assesses the overall impact of Europeanisation on Croatia and reflects on the above cited guiding questions: what is being Europeanised, why, how, by whom, and when? In particular, it examines the interrelation of indigenous and foreign (primarily EU) reform processes, their implication for Croatian polity, politics and policy domains, the 'transformative power of the EU' (cf. Grabbe, 2006) and Croatia's pattern(s) of adaptation and institutionalisation. The final chapter also reflects on the question of institutional development over time in the spatial environment of Croatia.

2

Conceptualising Europeanisation

2.1. Introduction

Europeanisation is a fashionable (Featherstone, 2003) yet ‘multivalent’ concept (cf. Gerring, 1999). As such, there are various ways one can make sense of the ‘many faces of Europeanisation’ (Olsen, 2002). In practice, usage tends to fluctuate between a broader and narrower conception (cf. Mjoset 1997; Olsen, 2002; Featherstone, 2003). Thus, some scholars approach Europeanisation rather narrowly as an exclusively EU-related phenomenon, while others understand it in a maximalist fashion as denoting patterns of ‘European integration’ linked to, but not exclusively restricted to, the EU (cf. Wallace, 2000; Dyson and Goetz, 2003a; Vink and Graziano, 2007). Additionally, in the context of EU impact studies much scholarship has centred on the ‘top-down’ or ‘downloading’ dimension of EU member state relationship, focusing on the disciplinary power of the EU to condition national responses according to its prescriptions. This ‘one-way’ understanding of the term was, however, rapidly contested by more sophisticated studies that tended to point to the circular flow of European integration from the national-to

Europe-to national back again (cf. Börzel, 2005; Lehmkuhl, 2007). In short, the notion of Europeanisation remains ‘essentially contested’ (Kassim, 2000: 235) even within this single subfield of European integration scholarship.

Drawing parallels to the previous works of Buller and Gamble (2002) and Radaelli (2003), one of the main purposes of this chapter is to examine critically a number of ‘systemised’ (Adcock and Collier, 2001) conceptions of the term against John Gerring’s (1999) criterial list of concept formation. Thus, the issue becomes one of being *clear each time about the properties of the concept* (Sartori, 1984; cited in Radaelli and Pasquier, 2007). In doing so, I intend to resort to a more sound and above all theoretically useful conceptualisation of Europeanisation that can legitimately underpin empirical analysis in the case-studies that follow.

The structure of the chapter is set out below. Section 2 presents the main argument of this chapter. Section 3 reviews the genealogy of a multifaceted concept: Europeanisation. Section 4 discusses the methodology of concept formation in social sciences drawing from eminent epistemologists such as Sartori (1970, 1984), Gerring (1999) and Adcock and Collier (2001). Section 5 discusses briefly the ‘background’ conceptualisations of ‘Europeanisation’ in order to point out their defects. It also assesses the term’s ‘systemised’ conceptualisations in EU scholarship beginning with the so-called ‘first-generation’ definitions and their pitfalls. The discussion will then turn to the ‘second-generation’ definitions stating explicitly why these definitions cannot be operationalised in this study. Section 6 puts forward this study’s definition and discusses its advantages and disadvantages. Section 7 assesses the utility of ‘Europeanisation’, whilst Section 8 summarises this chapter’s main points.

2.2. The argument

This study is chiefly (though not exclusively) about the impact of the EU on the Croatian polity. Since Ladrech’s (1994) landmark study on France’s adjustment to European integration, most EU impact studies use the term ‘Europeanisation’ as their main orchestrating concept. This study is not an exception. Despite the concept’s increasing popularity, critics assert that ‘Europeanisation’ suffers from a number of methodological problems: (i) it lacks a single and precise meaning; (ii) it has a complex ontology; and,

therefore, (iii) it is hard to measure (cf. Kassim, 2000; Olsen 2002; Mair, 2004; Radaelli, 2003; Haverland, 2005). Given these pitfalls, ‘Europeanisation’ has been characterised as an ‘essentially contested’ concept with limited organising capacity (Kassim, 2000). In this respect, a sceptical reader would reasonably wonder why then this study adopts as its core conceptual framework the highly disputable term of ‘Europeanisation’?

In this chapter I make the following claims. *First*, Europeanisation is a phenomenon with complex ontology; thus its multifaceted nature evades simple definitions (cf. Featherstone, 2003: 4; Featherstone and Papadimitriou, 2008: 23-24; Dyson and Goetz, 2003a). More concretely, within the processes of Europeanisation individuals and structures are inherently relational concepts: actors are not only structured by institutions, but they may also be structuring institutions (cf. Dyson and Featherstone, 1999: 776-82). Again, as noted by Bulmer and Radaelli (2005: 340), ‘neither the EU nor the member states are static, so Europeanization is a matter of reciprocity between moving features’. One has thus to recognise upfront that the EU and domestic institutions ‘co-evolve’ (Olsen, 2002: 941) and may mutually adapt to each other (Radaelli, 2004: 3; Gualini, 2003: 6). At the same time, Europeanisation processes can be generated both at a ‘top-down’ (i.e., the EU level to the domestic) and ‘bottom-up’ (i.e., from domestic reform agents) fashion. Finally, ‘Europeanisation’, if placed within the international system, needs to be distinguished from related concepts such as ‘globalisation’, a task that is far from easy. The same problem exists within the frame of comparative politics where Europeanisation competes against domestic sources of change (for a detailed assessment see Chapter 3). For all these reasons, defining and modelling ‘Europeanisation’ in a simple fashion runs afoul with the inherent complexity of the phenomenon.

Second, ‘Europeanisation’ is an *essential* (and maybe even indispensable) concept for underpinning empirical analysis on the variegated domestic effects of European integration. To paraphrase John Gerring (1999: 372), this is all the more true because ‘we need a way to talk about these things and simply there is no other eligible (parsimonious and reasonably familiar) alternative [concept]’. Put negatively, abandoning ‘Europeanisation’ is likely to cause more problems than it solves.

Third, given the fact that the meaning of Europeanisation is essentially contested, any definitional choice ought not to be arbitrary. Instead it should be justified on the grounds of

specific arguments linked to the goals and context of the research at hand (Adcock and Collier, 2001: 532; see also Gerring, 1999: 391). In other words, it is not productive to treat other definitional choices as self evidently ruled out by the very definition adopted by the researcher. In this respect, there is a need for more rigorous conceptual evaluation, refinement and choice (cf. Buller and Gamble, 2002; Radaelli, 2003).

Fourth, definitional choices should respond to a sound political science methodology, that is, to a standard set of concept formation criteria (see, e.g., Sartori, 1970, 1984; Gerring, 1999). To this end, this study adopts John Gerring's (1999) quick and ready eight-part criterial framework of conceptual adequacy by which the strengths and weaknesses of alternative conceptualisations of the term will be critically assessed.

Lastly, the definition chosen here should somehow be commensurate with this study's explanatory framework (see Chapter 3). Given that this study adopts a historical variant of the RCI, the role of agency should be explicitly acknowledged within the definition and set against an institutionalist approach that recognises the mediating power of domestic institutions to condition the outcomes of Europeanisation. In short, the definition chosen should exhibit a degree of theoretical (and empirical) utility.

2.3. The genealogy of a multifaceted concept

As an intellectual approach the Europeanisation literature builds on (and exemplifies) Peter Gourevitch's (1978) 'second-image reversed' argument. In its original context, Gourevitch's (1978: 882) thesis referred to the impact of the international system on the domestic politics. Europeanisation has primarily to do with the effects of the EU on European nation-states (be it members, quasi-members or non-members). Thus, the study of Europeanisation is 'post-ontological' inquiring not into 'the nature of the beast' but 'the beast's' effects on others in its environment.

Whilst initially work on Europeanisation was largely descriptive and heavily focused on the 'top-down' uni-directional and isomorphic pattern of influence (i.e., from the EU to the domestic level), with the turn of the century Europeanisation studies entered a highly sophisticated intellectual stage where the phenomenon was no longer understood in teleological terms, but rather as an open-ended, 'two-way' dialectical process entailing 'differential' impacts (see, e.g., Risse et al. 2001; Dyson and Goetz, 2003a; Börzel and

Risse, 2003, 2007; Radaelli, 2003, 2004; Bulmer and Lesquene, 2005; Börzel, 2005; Bache and Jordan, 2006a; Featherstone and Papadimitriou, 2008; James, 2010; see, however, Buller and Gamble, 2002 for a notable exception). Given the fact that the weight of the EU across the continent has grown enormously since the collapse of Berlin Wall in 1989 and that ‘Europeanisation’ is less a theory than an ‘attention-directing device’ (Olsen, 2002), it is not surprising that research on ‘the domestic impact of Europe’ (Börzel and Risse, 2007) rapidly expanded beyond EU member states to encompass ‘adaptation’ trends in quasi-members such as Norway and Switzerland (cf. Kux and Sverdrup, 2000; Egeberg, 2005) and accession countries (e.g., see Grabbe, 2006; Lippert et al. 2001; Goetz, 2000, 2001; Schimmelfennig and Sedelmeier, 2005a; Sepos, 2008; Zubek, 2008).

As noted, even within the field of EU studies ‘Europeanisation’ escapes a single definition. This is partly because of the relative newness of the research agenda and partly because researchers have approached Europeanisation with either a narrow and coherent definition or a broad and potentially confusing one (cf. Lehmkuhl, 2007). In short, as any other social concept, Europeanisation reflects the intellectual maturation of the analytical framework(s) within which it is embedded, employed and measured (see below).

John Gerring (1999) has argued that ‘conceptual goodness’ is indispensable for social science analyses, making sound and clear concept formation methodology crucial for picking and choosing the most suitable definition to underpin empirical measurement. At the same time, definitions need to exhibit a certain degree of theoretical utility. The next section outlines John Gerring’s criteria list which will be used accordingly to frame the critical analysis of a number of definitions of Europeanisation.

2.4. The methodology of concept formation

Concepts are (or should be) parsimonious and compact abbreviations of the combination of sequences of images that a person has in his/her mind when s/he asserts. Schematically, a concept is made up of three elements: (i) the *extension* component; (ii) the *intension* component; and (iii) the *label* covering both (i) and (ii) (Gerring, 1999: 357-58). A concept’s extension *denotes* the events, phenomena or circumstances that the concept seeks to make sense of. Its intension *connotes* the properties or attributes that determine the things to which the term applies and separate one concept from another. Thirdly, the much

neglected *label* or the signifier under which the aforementioned two aspects are subsumed. It follows that a successful and hence operationalisable concept should exhibit a proper equilibrium of its three constituent elements. Therefore, good concepts need sound definitions to operate (Gerring, 1999). This is all the more true because conceptual formation and theory-building are ‘intimately conjoined’ enterprises, though the former ‘is not reducible to the latter’ (ibid: 365). Political science methodologists, in addition, suggest that conceptual analysis also covers model building, classification, measurement, category mistakes and pitfalls (cf. Radaelli and Pasquier, 2007). As Robert Adcock and David Collier (2001: 529) summarise: ‘The clarification and refinement of concepts is a fundamental task in political science, and carefully developed concepts are, in turn, a major prerequisite for meaningful discussions of measurement validity’.

Therefore, the construction of new concepts ought to follow a systemised and transparent route of selection of those elements or proportions of ‘reality’ that are ‘essential’ for a community of specialised scientists. Sartori (1970) reminds us that concepts which are not well-defined lead to fuzziness and elusiveness: the higher the vagueness and conceptual obscurity of a term ‘the more tenuous the link with empirical evidence’ (1970: 1035). In this respect, the real problem with almost all social concepts is that, more often than not, they obfuscate the relationship between *genus* and *species*. In so doing, they pay lip service in respecting the ‘ladder of abstraction’ and thus generate mistakes in terms of *degreism*. Scholars unable to answer ‘*what is*’ questions switch to ‘*how much*’ questions - thus substituting differences of *kind* with differences in *degree* (Sartori, 1970: 1036). In doing so, they arguably commit the sin of ‘conceptual stretching’: broadening the extension of a concept without reducing its connotation (‘intension’). As such, the end-product seems a mere generality or an empty category since ‘concepts without negation’ - with no specified termination or boundaries point to everything and are thus rendered *meaningless*.

In this vein, Sartori and Gerring highlight the importance and need for a rigorous conceptual analysis grounded, in turn, in a sound methodological path of concept building and evaluation (see also Adcock and Collier, 2001). Whilst for Sartori (1984) concept formation is more or less a ‘recipe-like’ rule-bound methodology where the conceptualiser must adhere invariably to all ten rules (*a la* Sartori), for Gerring it is more a flexible and unpredictable process which ultimately involves interdependence and ‘tradeoffs’ among a

concept's triad nature (i.e., extension, intension and label). According to Gerring, concept formation should be understood not as a fixed and hierarchical enterprise, but rather as an attempt to mediate among what he has established as an eight-part criterial framework (see below). Central to his epistemology is the belief that no concept is permanent or static. In other words, concepts are live entities subject to empirical amenability, revision or even dismay (see also Adcock and Collier, 2001: 532). Put otherwise, concepts are 'pragmatic, and often temporary, expedients' (Gerring, 1999: 390) and concept formation ultimately a 'contextual' affair.

In this respect, the procedure of concept formation cannot fully solve the problem of 'conceptual-vagueness' (as Sartori's 'rulebook' may endeavour), because meanings of a particular concept will vary considerably across time, semantic fields, intellectual traditions and analytical tasks. The task is to resort each time to a 'core' or 'essential' meaning commonly shared by the given specialised academic community. For instance, in broad terms when one says 'Europeanisation', what one is (or should be) really talking about is the 'domestic impact of European regional integration' (Vink and Graziano, 2007). Thus, scholars interested in the domestic effects of 'European integration' need to speak the same language. Otherwise their empirical findings will not stand the task of comparison and knowledge will not accumulate.

Notwithstanding their differences, both Sartori and Gerring converge, however, on the crucial point that each new concept must adhere to a number of set guidelines. In the language of Sartori (1984: 51-4), this involves clarifying the semantic terrain (cited in Adcock and Collier, 2001: 533). In clarifying and refining the internal properties and external boundaries defining 'Europeanisation', Gerring's (1999) eight-part schema will be preferred to that of Sartori (1984), because it provides a more flexible perspective to conceptual analysis rather than a rigid, rule-defined one. This study is also open to the possibility (if not certainty) that 'what begins as a consideration of the internal dimensions or components of a single concept [in this case 'Europeanisation'] may become a discussion of multiple concepts' (Adcock and Collier, 2001: 533). Thus, concepts other than 'Europeanisation' (mainly those of 'top-down', 'bottom-up' and 'European integration') will be taken on by the analysis in an attempt to arrive at a sufficiently demarcated definition to underpin empirical research.

2.4.1. The criterial framework

According to Gerring (1999: 366- 383), ‘conceptual goodness’ is the outcome of ‘trade-offs’ between the following eight criteria: (i) familiarity, (ii) resonance, (iii) parsimony, (iv) coherence, (v) differentiation, (vi) depth, (vii) theoretical utility and, (viii) field utility. Each of these criteria is briefly described as follows:

(i) *Familiarity* refers to the degree to which a new concept conforms or clashes with established usage. The more a new concept strays from established convention, the less likely it is to be remembered and accepted by the relevant academic community. In the end, achieving familiarity becomes a matter of finding the term that most accurately describes the phenomenon under definition.

(ii) *Resonance* refers to the ‘cognitive click’ of a given term. The higher the degree to which a chosen label *resonates* with the relevant academic audience, the better its chances of being remembered. However, it should be noted that achieving resonance more often than not comes at a high price since ‘trying to be witty or trendy may lead to a choice which confuses rather than clarifies’ (Buller and Gamble, 2002: 7).

(iii) *Parsimony* denotes that a concept has to be as simple and accurate as possible. Extensive and all-encompassing definitions that incorporate both ‘definitional’ and ‘accompanying’ attributes offer almost nothing at all, rendering the concept in question ultimately *amorphous*.

(iv) *Coherence* signifies the degree of logical relation and ‘match’ between the *extension* and *intension* components of a concept. It follows that the closer the attributes (‘intension’) of a given term fit or ‘belong’ to its characteristics (the phenomena it covers - ‘extension’), the greater the level of definitional coherence. In more general terms, the lesson would seem to be: distinguish between a term’s ‘definitional’ and ‘accompanying’ attributes and then avoid incorporating the latter properties in the definition.

(v) *External differentiation* constitutes the flip side of internal coherence since it refers to the process of determining the semantic boundaries of a concept, namely, what a concept *is not*. Concepts without a termination are pointless or

even damaging. As Sartori (1970: 1039) reminds us: ‘the lower the discriminating power of a conceptual container, the more the facts are misgathered, i.e., the greater the misinformation’. It is indispensable thus to establish clear boundaries beyond which a given concept must not stray. Otherwise concept stretching (see above) seems unavoidable. In this vein, a sufficiently bounded concept is a good concept which is *operationalisable*.

(vi) *Depth* denotes the importance of the number of characteristics that the concept can ‘bundle together’. It follows that: ‘the greater the number of properties shared by the phenomena in the extension, the greater the *depth* of a concept’ (Gerring, 1999: 380).

(vii) *Theoretical utility* refers to the inherent co-relation between concepts and theories. Put simply, concepts should work in favour of and/or in support of theory-building endeavours; whereas

(viii) *Field utility* denotes the degree of ‘disruption’ that concept formation can generate in the rest of the semantic field in which researchers are working (Buller and Gamble 2002: 8). The implication is that the less the disruption, the lower the degree of terminological damage, and so, the better for the research field. As Gerring cautions (1999: 382), (re-)inventing a concept naturally implies a re-settling in the semantic terrain of neighbouring concepts given that (re-) conceptualising consists of establishing relations with other terms. Thus, one should be very careful not to steal defining referents from neighbouring terms when defining a given concept at the risk of leaving the latter as empty categories. Attention to this criterion is very important if one is to avoid the problem of *semantic impoverishment*.

In sum, the point to be made here is that by adhering to a set list of interdependent desiderata, a researcher can construct a matrix of definitions/meanings associated with the term in question and, accordingly, test their strengths and weaknesses against the set guidelines. It follows that definitions which heavily violate a number of important criteria or simply look quite ‘old fashioned’ can legitimately be ruled out by the analyst. This is not to say, however, that the definition chosen will be a perfect one, or that it will meet successfully all of the given criteria. To the contrary, as Adcock and Collier (2001: 532;

emphasis added) sceptically note, ‘a careful examination of diverse meanings helps clarify the options, but ultimately *choices* must be made’. In other words, while it is important to recognise that a real choice is being made, it is equally essential to acknowledge that choices are limited and always come at a cost. In short, no concept is ever to be fully defined; some ambiguity will always persist. Therefore, this study contends that approaching the process of concept evaluation through an integrated framework such as that offered by Gerring reduces the uncertainty of this process, leading to better definitional choices.

2.5. Classifying Europeanisation

A good way to start mapping the multiple definitions of Europeanisation and ‘unpack’ its internal compounds in order to arrive at a useful definition is to follow Robert Adcock and David Collier’s (2001) distinction between ‘background’ and ‘systemised’ concepts. According to Adcock and Collier (2001: 530), background concepts encompass the ‘constellation of potentially diverse meanings with a given concept’. Therefore, a background concept does not represent a clear and explicit definition. Quite the opposite, it covers all possible meanings and research subjects relevant to a wide community of scholars (historians, political scientists, anthropologists etc.).

Although ‘Europeanisation’ as an ‘encyclopaedic’ term (cf. Radaelli, 2004) is a legitimate one given that its meanings may vary across study fields and intellectual traditions (see below), the focus on a broad understanding of the term is, however, hardly useful for the special community of ‘European integration’ scholars to whom this study is chiefly directed. Put otherwise, ‘Europeanisation’ needs a systemised definition to have an operationalisable meaning. In this respect, a systemised concept refers to a specific formulation adopted by a particular researcher or community of specialists and ‘is usually formulated in terms of an explicit definition’ (ibid: 530). The latter category thus allows scholars to speak the same language when they test, measure and make claims over a phenomenon’s essence. As Sartori (1970: 1038) puts it, ‘measurement of what? We cannot measure unless we know first what is that we are measuring’. In this context, systemised concepts are closer to answering the ‘*what is*’ question and, in so doing, they are better suited for investigation (i.e., measurement). ‘Europeanisation’ as a systemised concept is more promising for ‘unpacking’ the variegated processes and effects of European

integration and, its impact on the institutions and policies of the particular polity(ies) under investigation.

The next section discusses in brief the background conceptualisations of ‘Europeanisation’ before elaborating on the more systemised meanings associated with the term in order to locate the most useful definition to underpin empirical analysis.

2.5.1. A background concept: *Europeanisation in social sciences*

In the language of Claudio Radaelli (2004: 2), Europeanisation as a background concept would refer ‘to all the possible meanings we may want to include in an encyclopaedia’. As such, ‘Europeanisation’ has varied over history, politics, society and economics (cf. Mjoset, 1997; Olsen, 2002; Featherstone, 2003). In particular, scholars like Olsen (2002) and Harmsen and Wilson (2000) have classified the ‘multiple faces of Europeanisation’ as encompassing understandings such as ‘modernisation’, ‘transnationalism and cultural integration’, ‘changes in external boundaries of Europe’, ‘the political unification of Europe’ and ‘the export of European institutions beyond Europe’s boundaries’ (cf. Borneman and Fowler, 1997; Featherstone, 2003; Schimmelfennig, 2007).

To an extent all of these maximalist definitions have been subjected to critical evaluation by other scholars (cf. Buller and Gamble, 2002; Featherstone, 2003). Suffice to say, most of them have been found ‘guilty’ of violating a great number of Gerring’s criteria, most notably those of external differentiation and internal coherence (see Buller and Gamble, 2002). As most of these definitions incorporate terms that seem or are synonymous with other established notions such as ‘policy transfer’, ‘diffusion’, ‘political unification’, ‘integration’, ‘enlargement’ and ‘modernisation’, ‘Europeanisation’ becomes a neologism without a precise and unique meaning. Dirk Lehmkuhl (2007: 340) summarises the point well: ‘If understood in such an encompassing way, Europeanization loses its *differentium specificum*’.

To be fair, all these meanings provide useful insights into a very complex phenomenon (i.e., European integration). Consequently, their virtues should not be disregarded. Nonetheless, for a researcher interested in the transformative power of post-War II European integration it is very difficult to see where the added value of these meanings lies. As a result, they shall not be operationalised in this study. That said, there is a need for

a more systemised conceptualisation of the phenomenon, which will now be the focus of this critical survey.

2.5.2. A systemised concept (1): Europeanisation as a uni-directional top-down process

In the early stages of its exploration in EU studies, the concept of ‘Europeanisation’ referred exclusively to the ‘top down’ uni-directional pattern of relationships between the EU and its member-states and served a dual function. First, it illustrated EU policies and institutions as independent variables in domestic politics and, second, it referred to the processes by which domestic arrangements adapt to European integration (Caporaso, 2007: 23-27). Europeanisation was, accordingly, understood and theorised as a vertical process of ‘institutionalisation’ (Stone Sweet et al. 2001) of distinct patterns of EU governance in member states (cf. Ladrech, 1994; Meny et al. 1996; Börzel, 1999; Héritier et al. 2001; Knill, 2001).

As noted earlier, the work of Robert Ladrech in *Europeanisation of domestic politics and institutions: the case of France* (1994) proved to be crucial to bringing the concept of Europeanisation into the language and attention of EU impact specialists. Ladrech (1994: 69) defined ‘Europeanisation’ as: ‘an incremental process reorienting the direction and shape of politics to the degree that EC political and economic dynamics become part of the organisational logic of national politics and policy making’.

In other words, domestic politics were being changed by the reaction of national organisations to the altered or altering context brought about by EU membership. The key concept was ‘organizational logic’, by which Ladrech (1994: 71) meant the ‘adaptive processes of organizations to a changed or changing environment’. This understanding implied a ‘top-down’ direction of causation and identified ‘Europeanisation’ as an incremental process of adaptation to EC/EU impulses. Whilst this definition is sufficiently differentiated from neighbouring semantic terrains (e.g., European integration, policy transfer), it remains somewhat structuralist since too much emphasis is placed upon ‘organisations’. In this way (and despite the high degrees of external differentiation, parsimony and field utility) this definition appears quite ‘old fashioned’ and too narrow to gauge the extent of ‘Europeanisation’.

In a slightly different vein, Adrienne Héritier (2001: 3) defined the phenomenon as a ‘process of influence deriving from European decisions and impacting member states’ policies and political and administrative structure’. Whilst Héritier’s conceptualisation covers many more features of domestic politics when compared to Ladrech’s (1994), some might find it also a bit structuralist. Indeed, the role of agency and its active engagement in the politics of adaptation is not clear. Another shortcoming is the exclusive emphasis placed on the ‘member states’. How can a researcher interested in the domestic impact of Europe on the candidate states operationalise such a definition? Let it be said explicitly then: while Héritier’s definition exhibits a high degree of ‘external differentiation’ (it has stable and legitimate boundaries), ‘field utility’ (it does not encroach upon the semantic terrain of neighbouring concepts) and internal coherence (there is no contradiction between its defining components), the definition cannot be operationalised in this study due to its lack of explicit reference to the dynamic role of agency, as well as its relatively exclusivist scope (e.g., member states).

Much like Héritier and Ladrech, Tanja Börzel and Thomas Risse (2007: 485) have defined ‘Europeanisation’ in a ‘top-down’ sense, ‘focusing on the domestic impact of Europe and the European Union’. According to them, ‘Europeanization would refer to the ‘domestic impact of Europe’ – the various ways in which institutions, processes and policies emanating from the European level influence policies, politics, and polities at the domestic level (be it member or non-member states’ (ibid). At first glance, this definition exhibits many virtues. To begin with, this conceptualisation appears to score high both in terms of *internal coherence* and *external differentiation* since, first, the defining attributes (‘intention’) of the term ‘fit’ its characteristics (‘extension’) well and, second, the conceptualisation does not encroach upon neighbouring terminology such as ‘policy transfer’, ‘integration’ or ‘institutionalisation’. At the same time, Börzel and Risse attempt to subject their definition to ‘measurement validity’ by directing the analyst towards three particular domestic domains where s/he could gauge European impacts: ‘policies, politics and polities’. Finally, this definition does not clash with the label of the term as it views Europeanisation as the domestic impact of ‘Europe’ rather than merely of the ‘EU’.

For all these reasons this conceptualisation appears (and for some scholars is) legitimate enough to underpin analysis of the domestic effects of European integration in the

Republic of Croatia. Though I do acknowledge the definition's important qualities, I nonetheless will not apply it for the following two main reasons. First and possibly most significantly, this 'top-down' definition seems to violate the *familiarity* criterion as there is now some degree of consensus in the literature 'over the need for the definition of 'Europeanization' to be broadly set' (Featherstone and Papadimitriou, 2008: 24). To be more precise, as noted from the outset, Europeanisation produces a complex ontology with the direction of domestic change being either 'top-down' (the EU to the domestic level) and/or 'bottom-up' (the domestic level to that of the EU'). Indeed, an increasing number of Europeanisation studies have suggested that member-states 'routinely pre-empt domestic adjustment by shaping an emergent EU policy in their own image' (Bache and Jordan, 2006a: 22; Börzel, 2005; Kassim, 2005; James, 2010; see below). For Klaus H. Goetz (2002: 4) Europeanisation is thus a 'circular rather than unidirectional, and cyclical rather than 'one off'' process of domestic change. 'With this complexity', Featherstone and Papadimitriou (2008: 24) maintain, 'simple definitions appear elusive'. Scholars such as Radaelli (2003) and Dyson and Goetz (2003a) have thus conceptualised the phenomenon as 'all-encompassing', though crucial differences inform their definitional choices (see below). In short, opting for a narrow 'top-down' (and possibly 'old-fashioned') definition would seem to place the present thesis somewhat outside the contemporary Europeanisation debates. Second, a sceptical reader may also observe that this definition does not clarify the 'missing link' (Goetz, 2000: 222) between European processes and domestic effects. In other words, it says little about the 'trigger(s)' of domestic change (be it factors or actors); thus it appears to score low in terms of *theoretical utility*. For all these reasons, Börzel and Risse's (2007) definition (despite its advantages) cannot be applied in this thesis.

Apparently, all the aforementioned conceptions describe a *process* originated at the level of the EU and descending downwards to the national level. While they do not question this direction and logic of 'intrusion', Buller and Gamble (2002: 17) define Europeanisation as 'a situation where distinct modes of European governance have transformed aspects of domestic politics'. In this sense, Europeanisation is an end-state with a particular effect: transformation. Such a postulation exhibits important qualities; yet it is not without its pitfalls. To begin with, the definition is sufficiently bounded and thus appears useful for the field of European integration studies. Given that it gives 'analytical primacy to the

impact of European developments at the domestic level' (ibid: 18), it retains intact the key feature that differentiates it enough from neighbouring concepts such 'European integration' and, therefore, causes minimal disruption to the related terminology. Furthermore, it is internally coherent since no contradictory elements are included and the properties of the concept (intension) and the phenomena it covers (extension) correspond and/or logically relate to one another. Again, the definition does not contain endless qualifications and, therefore, seems quite parsimonious.

The said virtues notwithstanding, the definition seems to violate an important criterion: *familiarity*. Given the fact that it crucially diverges from and/or clashes with the established usage of the term (Europeanisation as a process of change), the definitional emphasis on a teleological cum transformative essence stretches the concept further from the established wisdom that associates Europeanisation with a broad, rather than a narrow, range of effects. In doing so, this definition renders the concept an 'exotic' option that is hardly identifiable in the domestic politics of adaptation. These, more often than not, are characterised by differential responses to EU impulses which, in turn, range from continuity to transformation (including inertia, accommodation and retrenchment; see below). If 'Europeanisation' were to denote solely the state of 'transformation', it would have been a least interesting case for investigation. As noted by Featherstone and Papadimitriou (2008: 23), 'it is precisely the apparently asymmetrical effects of Europeanization, which can also be temporary and reversible, that prompt the interest in examining its processes'. Because of its inability to capture such dynamism, this definition cannot be operationalised here.

In sum, all definitions discussed here exhibit both advantages and drawbacks. Yet, their pitfalls seem to outweigh their utility. Whilst all definitions are sufficiently 'bounded' and, hence, do not encroach upon neighbouring terminology, they are, nonetheless, either too narrow, too structuralist, and/or quite 'old-fashioned'. Héritier's definition refers exclusively to member states and is thus unable to capture patterns of impact beyond the EU. Ladrech's definition concentrates heavily on organisations, disregarding therefore the crucial role of individuals. Lastly, the definitions put forward by Buller and Gamble and Börzel and Risse do not seem *familiar* enough for the academic community. In a way, all definitions seem to capture, however, certain bits and bytes of a highly complex

phenomenon. How can one operationalise, therefore, definitions with a limited, if not obsolete, analytical scope? For all these reasons none of these definitions (despite their qualities) can be employed in this study. The next section reviews the so-called ‘second generation’ definitions with their emphasis on the interactive or recursive nature of Europeanisation processes.

2.5.3. A systemised concept (2): Europeanisation as an interactive two-way process

Common sense suggests that ‘Europeanisation’ relates to the effects of European integration at the national level. However, an increasing number of academics have asserted that a sustained focus on both levels (EU-nation state) is required to better understand the circular flow of European integration (cf. Risse et al. 2001; Featherstone and Kazamias, 2001; Olsen, 2002; Dyson and Goetz, 2003a; Börzel, 2003, 2005; Bulmer and Burch, 2006; Caporaso, 2007; James, 2010). They emphasise that the relationship between the EU and its member states is not *strictu sensu* ‘a one-way street’ (Börzel, 2005: 62). Instead, it is a complex, dialectical and recursive process that may entail feedbacks from the domestic level to the European level. The implication is that member-states may ‘upload’ (Börzel, 2005) or ‘project’ (Bulmer and Burch, 2006) their own institutions, policy paradigms and practices to the EU level in a clear attempt to shape the ‘general trajectory of the European integration process in ways that suit their national interests’ (Sepos, 2008: 6). They do so either because they wish to minimise the potential costs of adaptation emanating out of ‘misfitting’ policies descending from ‘Brussels’ and/or because they want to *use* European developments as external (and perhaps internalised) discipline and a catalyst instigating and legitimising domestic reforms (cf. Dyson and Featherstone, 1996; Hay and Rosamond, 2002; Featherstone and Papadimitriou, 2008).

In this sense, the nature of Europeanisation produces a complex circular and cyclical ontology since it appears to be both a cause and an effect. To put it in more a positivist way, the boundaries between independent and dependent variables collapse, as pointed by Tanja Börzel (2005). Risse et al. (2001: 3; emphasis added) defined ‘Europeanisation’ as: ‘the *emergence and development* at the European level of distinct structures of governance, that is, of political, legal, and social institutions associated with political problem solving that formalise interactions among the actors, and of policy networks specialising in the *creation of authoritative* European rules’.

Set against Gerring's framework, Risse et al.'s (2001) definition violates a number of important criteria. Firstly, Europeanisation defined as the 'emergence and development at the European level of distinct structures of governance' encroaches upon the semantic terrain of an established and well-theorised concept: European integration. By connoting processes of institution-building and policy-making at the 'European level', Europeanisation 'steals' core definitional attributes from the term 'European integration'. In doing so, it leaves the latter as 'an empty category' while it becomes a *neologism* without a unique and innovative meaning. Europeanisation as 'emergence' abuses thus the criterion of 'field utility'.

Secondly, the definition seems limitless or with no termination (Sartori, 1970) as it includes both the processes and politics at the European level and their effects on the nation-state. As such, the definition not only violates the parsimony criterion, but most importantly, it fails to demarcate sufficiently the concept's external boundaries. In other words, it severely mistreats the 'external differentiation' criterion and as such appears stretched to the point of breaking. Third, familiarity and resonance are violated due to the fact that the definition diverts significantly from the established understanding and usage of the term. Consequently, it does not resonate well with the object of analysis in Europeanisation studies. Lastly, the particular emphasis on policy networks may lead the reader to mistake the otherwise multiple faces of 'European governance' (Kohler-Koch, 1999) for only one mode (i.e., networks) which, in itself, is not an ever-present phenomenon (see also Radaelli, 2003: 29). All in all, Risse et al.'s (2001) definition is to a great extent misleading, disruptive and possibly detrimental for the semantic terrain of other academics. Therefore, it would appear quite an 'illegitimate' meaning to underpin analysis with reference to 'the domestic impact of European regional integration'.

The second definition in line with a broad, all-encompassing and circular understanding of 'Europeanisation' has been put forward by Claudio Radaelli (2003). He defines the phenomenon as entailing

'processes of (a) construction, (b) diffusion, and (c) institutionalization of formal and informal rules, procedures, policy paradigms, styles, 'ways of doing things', and shared beliefs and norms which are first defined and consolidated in the making of EU public policy and politics and then incorporated in the logic of domestic discourse, identities, political structures, and public policies' (2003: 30).

Radaelli has provided the broadest and (probably) the most inclusive synthesis of the phenomena covered by Europeanisation. In the language of Sartori (1984), this definition belongs to a trivial sub-class of *denotative* definitions (i.e., definitions intended to seize the object) called *précising* definition given that it combines high degrees of ‘connotativeness’ (high degree of intension) and ‘denotativeness’ (increasing extension). In simple terms, the definition represents an ‘orchestration’ of established concepts (Radaelli, 2004: 5). In effect, the inclusion of elements, such as construction, diffusion and institutionalisation, reflects the ‘wildly yielding and partly confusing richness of research’ (Lehmkuhl, 2007: 339).

The concept of Europeanisation, so defined, is *familiar* enough to students of EU impact studies, and it seems *theoretically* and empirically useful as ‘it is broad [enough] to cover the major interests of political scientists, such as political structure, public policy, identities, and the cognitive dimensions of politics’ (Radaelli, 2003: 30). At the same time, Radaelli manages to attain a high degree of *depth* and inclusiveness (though this intention might appear as a defect and contradictory to the parsimony criterion; see below). Despite the said advantages, this definition, in turn, is not without its defects.

First, in being a ‘catch-all’ *explanandum* Radaelli’s definition violates the *parsimony* criterion because its long intension, even if composed of closely related attributes, creates a ‘cumbersome semantic vehicle’ (cf. Gerring, 1999: 371). As Gerring (1999: 373) expounds, ‘A long neologism is an unseemly neologism’; thus Radaelli’s conceptualisation with its long listing of defining attributes seems *amorphous*.

Second, as Radaelli (2003: 31) himself notes, his analytical focus is on the European Union rather than ‘Europe’. In a way, this choice (no matter how legitimate it may be for empirical reasons) seems to violate the *resonance* criterion (Gerring, 1999) given its ambiguity (Sartori, 1984: 35) with respect to the term’s label. If ‘Europeanisation’ is to denote solely EU impulses why not use Helen Wallace’s (2000) far more precise terminology: EU-isation⁵? In other words, reducing Europeanisation to the EU generates further inconsistency in the meaning of the term – this time with respect to the relationship

⁵ Indeed, this is a critical line that can also be levelled against all definitions that relate the concept exclusively with the European Union (e.g., see Ladrech, 1994; Bache and Jordan, 2006a; Sedelmeier, 2006).

between the label and the object of analysis (referent). This is an important defect on which, more often than not, researchers turn a blind eye.

Third, a sceptical reader may suggest that Radaelli's definition violates the *external differentiation* criterion as it incorporates established terms such as 'diffusion' and 'institutionalization'. In this respect, this conceptualisation is 'poorly bounded', given that its definitional borders 'overlap neighboring concepts' (Gerring, 1999: 376). Indeed, Europeanisation may (and often does) entail processes of 'diffusion' and 'institutionalization', but enclosing within the definition these established terms as *defining* rather than *accompanying* properties (cf. Sartori, 1984) further reduces the term's utility.

Finally and perhaps most significantly, Börzel and Risse (2007: 485) have suggested that Radaelli's definition encompasses both the 'uploading' and 'downloading' usages of the term and 'conceives Europeanization as both a 'bottom-up' and a 'top-down' process'. In this respect, they continue, '[Radaelli's conceptualisation of Europeanisation] ceases to be a researchable subject matter, no matter how often we use terms such as 'coevolution' and 'mutual adaptation'...' (ibid). At first sight, Börzel and Risse's critique may seem legitimate given that Europeanisation defined as 'construction' appears to violate the *internal coherence* and *external differentiation* criteria as it may be mistaken for 'European integration'; thus it is *boundless* and therefore 'sinful' in terms of 'conceptual stretching'. In my view [increasingly shared by scholars such as Radaelli and Bulmer (2005), Dyson and Goetz (2003a), Bache and Jordan (2006a), Featherstone and Papadimitriou (2008), and James (2010)], one should not go that far, as Radaelli himself justifies his choice to include the 'construction' attribute and/or 'governance by negotiation' mode of 'Europeanisation' 'for the sake of completeness in understanding the process' (Bulmer and Radaelli, 2005: 343). However, he is careful to warn that his definition should not be seen as 'synonymous with European integration or EU policy making' (ibid). It follows from this that his intention is to reserve the term 'Europeanisation' for phenomena that are undoubtedly bound up with, yet analytically and empirically distinct from, the European integration process itself. Therefore, the inferred 'uploading' dimension of the 'construction' argument is not a defining property of Europeanisation itself; rather it is an '*accompanying*' feature (cf. Sartori, 1984). I return to this argument later.

2.6. Europeanisation as a conceptual framework

As evidenced by the preceding critical survey, there is no single definition of Europeanisation. Thus far the nature of the research question(s) has largely determined the meaning of the term, resulting in a wide variety of meanings. In light of the critical points raised above, this thesis adopts Dyson and Goetz's (2003a: 20) definition:

'Europeanization denotes a complex interactive 'top-down' and 'bottom-up' process in which domestic polities, politics, and public policies are shaped by European integration and in which domestic actors use European integration to shape the domestic arena. It may produce either continuity or change and potentially variable and contingent outcomes'.

Broadly, this conceptualisation can be divided into two main components of the definition: (i) the 'direction of change' and (ii) the 'outcomes of Europeanisation'. Each of these is discussed separately below. At a second stage, the discussion goes on to assess the definition's pros and cons against Gerring's criterial framework.

2.6.1 The directions of change

According to Dyson and Goetz, 'Europeanisation' is a complex phenomenon consisting of interactive 'top-down' and 'bottom-up' processes of influence. In this sense, the authors point to the dialectical nature of the phenomenon, reminding the readers that when it comes to studying 'Europeanisation', they are 'always trying to hit a moving target', a point highlighted by Buller and Gamble as well (2002: 16). The 'top-down' direction of change points to the vertical relationship between the EU and its target-states. In a way, such postulation directs the researcher towards understanding Europeanisation as an 'impositional' or 'coercive' EU externality (legislation, regulations, conditionality etc.). This definitional property seems quite familiar and straightforward and does not, therefore need further clarification.

The 'bottom-up' component points to the 'creative use' of European integration by domestic actors. By referring to Europe, they 'construct' Europeanisation processes 'from below' in an attempt to legitimate challenging reforms, develop policy solutions and alter policy beliefs (cf. Knill and Lehmkuhl, 2002; Kallestrup, 2002; Schmidt and Radaelli, 2004; Bulmer and Radaelli, 2005). In this sense, 'Europe' offers the cognitive and

normative ‘frames’ or points of reference and/or materialist resources to domestic reformers who, in turn, use European integration as ‘a smokescreen for domestic policy manoeuvres’ (Buller and Gamble, 2002: 15). Seen thus, Europeanisation is more voluntarist in nature and subject to the active role of actors in generating European integration processes.

The definition does not make any explicit reference to the horizontal dimension of exchange of good practices and ideas where domestic adaptation results from voluntary socialisation processes between European states with the EU being at best an arena for inter-state communication (cf. Bulmer and Radaelli, 2005). Nonetheless, Dyson and Goetz (2003a: 15) definition remains open to this dimension of Europeanisation ‘as new forms of policy-making and governance emerge in the EU context’. In this respect, the definition encompasses as an ‘accompanying attribute’ (Sartori, 1984) what Howell (2004) has termed the ‘cross-loading’ dimension of Europeanisation. The same holds true for Börzel’s (2005) ‘uploading’ facet of Europeanisation. Although empirically they remain open to the possibility of recursive processes where domestic change is the result of an active projection of state preferences at the EU level, conceptually they point the researcher towards understanding ‘Europeanisation’ with reference to the domestic impact of European regional integration (Dyson and Goetz, 2003a: 20).

Lastly, brief reflections on the third key concept underpinning the definition, i.e., ‘European integration’, are in order. Europeanisation should not be confined to ‘the impact of EU’ (Sedelmeier, 2006). In general, it also needs to encompass processes of adaptation to other European organisations which are not the EU, such as OECD and/or Council of Europe (CoE). This is a very important, yet omitted, dimension of the phenomenon of European regional integration. Given that the subject matter of this study is causation rather than mere description, the capacity to disentangle multiple causes which arguably might operate at the same time (and possibly produce ‘joint’ effects) is a *sine qua non* for a coherent understanding of the multivalent nature of Europeanisation.

2.6.2 *The outcomes of Europeanisation*

If the first part of Dyson and Goetz’s definition dealt with the directions of Europeanisation, the second one directs the reader towards its outcomes. The first phase of

Europeanisation studies theorised the phenomenon as an *end-state* with convergence or transformation its expected consequence (cf. Bulmer and Lequesne, 2005). By contrast, this definition understands Europeanisation as a ‘process-oriented’ and therefore ‘indeterminate’ phenomenon which may entail multiple effects ranging from continuity to change. Inherent in this understanding is the firm conviction of authors (increasingly shared by most contributors in the field) that Europeanisation is ‘processed’ in the domestic setting differently across policy-sectors, institutions and nations. Héritier et al. (2001), Radaelli (2003: 37-38) and Risse et al. (2001) have classified different degrees of domestic change through EU membership. Tanja Börzel (2005) has provided a heuristic summary of the scope and direction of Europeanisation effects. In particular, the outcomes of domestic change may range from:

- **Inertia.** Inertia denotes a situation of non-change as states deliberately block, delay and/or resist EU-induced change and/or institution-building;
- **Absorption.** Absorption refers to change as adaptation as EU requirements are incorporated into the target domestic sector without substantially modifying the structure of national policies and institutions and the logic of political behaviour;
- **Accommodation.** Accommodation should not be mistaken for *transformation* as it refers to change in pre-existing policies and institutions, with their core structural features and collective understandings remaining, however, intact. According to the literature, accommodation can take the form of ‘patching up’ (Héritier, 2001b) or ‘layering’ (Thelen, 2003) new policies and institutions onto existing ones without changing the latter;
- **Transformation.** Transformation refers to a situation where certain policies and organisations are replaced with new ideational and institutional templates. Transformation accounts for systemic or ‘paradigmatic’ (Hall, 1993) change, meaning change in the fundamental logic of political behaviour as well as in the core of system-wide political, economic and social structures; and
- **Retrenchment.** Retrenchment is a rather bizarre situation of change where the national setting becomes less ‘European’ than it was.

Broadly, transformation and convergence are not to be expected as the dominant domestic consequence of Europeanisation given that the latter’s penetrative leverage hinges both on the nature of EU stimuli or ‘commitment devices’ (i.e., positive, negative and/or framing; see Knill and Lehmkuhl, 2002) and the permeability or porosity of the domestic settings.

As Johan Olsen (2002) reminds us, the policy and institutional unevenness across Europeanised policies, institutions as well as nation-states, is the result of (i) the unevenly developed institution-building and policy-making at the EU level and,(ii) the institutional traditions and historical experiences of the European nation-states that refract foreign (and endogenous) change impulses. This is the point where the definition meets new institutionalist accounts of politics and thus becomes theoretically useful. In short, such a definitional option shifts the analytical attention to the domestic conditions and factors, allowing the researcher to show the relevance or non-relevance of the EU stimuli and how these have been interpreted in the domestic setting (cf. Featherstone and Papadimitriou, 2008).

In this thesis, an attempt is made to employ this typology of possible Europeanisation effects to assess the degree of change in each of the case studies explored here. I report back on my findings in the final chapter.

2.7. Europeanisation assessed

Having decomposed Dyson and Goetz's definition 'into orderly and manageable sets of component units' (Sartori, 1970: 1083), I now turn towards establishing its advantages that allegedly distinguish it from the above-noted crowded semantic terrain.

First, this conceptualisation explicitly recognises that the phenomenon produces a complex ontology, answering to a great extent Featherstone (2003) and Radaelli's (2004) call for a subtler and dialectical (as opposed to 'uni-directional') understanding of 'Europeanisation'. In this respect, unlike the other definitions, Dyson and Goetz's conception embraces the 'directions of influence' (Featherstone and Papadimitriou, 2008: 24). Again, by recognising that the direction of change may be either 'top-down' and/or 'bottom-up', the definition, on the one hand, captures the major concerns of the 'second-generation' of Europeanisation studies which bestow increasing attention to the active capacity of domestic actors to engage and produce themselves 'Europeanisation' processes on

materialist and/or ideational grounds and, on the other, clarifies Goetz's (2000: 222) previous concern with respect to the 'missing link' between EU processes and domestic effects.

Second, the definition appears to strike a balance between the (often conflictual) criteria of *parsimony* and *depth* as the authors, compared to Radaelli's (2003) definition, chose not to over-load their definition with accompanying baggage, eschewing therefore the risk of creating a 'cumbersome and unappealing semantic vehicle' (Gerring, 1999: 371). Indeed, Dyson and Goetz's conception provides for a moderate (yet sufficient I would argue; see below) listing of measurement elements (i.e., polities, politics, and public policies) in that it does not direct the analyst towards endless Europeanising targets (e.g., discourses, political structures, public policies). After all, the term would have meant 'almost nothing at all if all of its possible attributes [were] included' (Gerring, 1999: 371). Evidently, this constitutes a *prima facie* example of 'tradeoffs' between criteria components.

Third, the definition does not incorporate any definitional properties that substitute other related terms with that of 'Europeanisation'. For instance, the definition does not mention 'integration', 'diffusion', 'institutionalisation' and/or 'policy transfer'. By doing so, the definition is seemingly differentiated from the neighbouring terminology.

Fourth, the definitional component which states that 'domestic actors use European integration to shape the domestic arena' explicitly acknowledges the important role of agency in structuring institutions. Together with the definitional recognition that institutions may shape the domestic arena, the explicit reference to agency increases the concept's *theoretical utility* by means of helping the (dis-)confirmation or building of theories (cf. George and Bennett, 2005).

Fifth, the definition corresponds to a large extent with this study's theoretical perspective, that is, a historical variant of RCI, since it recognises the interrelation between individuals and structures. This is all the more true when considering the definitional component which states that 'it may produce either continuity or change and potentially variable and contingent outcomes'. This implicitly recognises that Europeanisation processes are mediated by domestic political variables (be they institutions or actors). In this respect, the definition also fits in nicely with the study's 'bottom-up-down' explanatory framework

which bestows analytical primacy to domestic factors and their role in conditioning Europeanisation processes and effects (see Chapter 3). In a way, this definition responds also to Mair's (2004: 344) call for a theorisation of Europeanisation which is more sensitive to the phenomenon of 'politicisation', that is, for political or partisan contestation in the name of 'Europe'.

Sixth, by allowing for variability in effects, the definition does not prejudge the penetrative power of 'Europe'.

Seventh, by endorsing the term 'European integration' as opposed to the EU, the label of the term resonates well with the concept's meaning.

Eighth, the definition does not mention 'member states'; thus, it can be applied both to EU member states and to other European countries (most notably candidate countries). This is a very important quality as the subject of empirical enquiry is a non-member country.

Lastly, the definition incorporates the triad: politics, politics and policies. Thus it is in tandem with the analytical tool box of comparative politics and public policy.

Despite the aforementioned advantages, a sceptical reader may suggest that like Radaelli's conception, Dyson and Goetz's definition is not 'sufficiently bounded' in that its 'bottom-up' defining attribute may represent an alternative word for 'uploading'. Yet one should not go that far since the 'bottom-up' attribute regards the variable ways through 'which domestic actors use European integration to shape the domestic arena' (Dyson and Goetz, 2003a: 20). That said, 'uploading' is but one way, among others, in which national actors engineer domestic impacts. Indeed, by including the 'uploading' component, though implicitly and as an 'accompanying property' of Europeanisation, Dyson and Goetz do generate a certain degree of confusion. But this does not render their conceptualisation automatically 'illegitimate' and therefore inapplicable. I argue that this is because of two inter-related reasons.

First, as Adcock and Collier (2001) remind us, all definitional choices come at a cost. In this respect, 'no definitional choice [...] would be perfect' (Gerring, 1999: 391). It is therefore in this sense that the possible omission of the 'bottom-up' defining component may generate more damage than goodness in the field of Europeanisation studies as 'we

need a way to talk about these phenomena [i.e., the variable ways through which Europeanisation processes may be generated, including through the ‘uploading’ mechanism] and there is no other eligible (parsimonious and reasonably familiar) alternative’ (Gerring, 1999: 372). This is not to suggest, however, that Europeanisation as defined by Dyson and Goetz equates to ‘European integration’. The authors themselves point to the ‘interrelation’ of the two processes which, although it cannot be ignored in empirical research on Europeanisation, ‘is not strictly a defining property of Europeanization’ (Dyson and Goetz, 2003a: 20). In this respect, we should preserve Dyson and Goetz’s broad definition of Europeanisation. After all, external differentiation, like all criteria demands, ‘is a matter of degrees’ (Gerring, 1999: 377). That said, as Gerring rightly contends, we ‘must take a pragmatic approach to the goal of establishing differentiation...’ (ibid). Conceptual pragmatism underpins therefore the second reason informing my decision to uphold Dyson and Goetz’s definition against rival conceptualisations and despite its potential defects.

Second, concepts are living entities rather than fixed mental compounds and therefore are subject to contestation, amenability and even dismay. The issue becomes one of being *clear each time about the properties of the concept* (Sartori, 1984; cited in Radaelli and Pasquier, 2007). As evidenced by the above analysis, Dyson and Goetz’s definition focuses primarily on patterns of ‘downloading’ which themselves may encompass either ‘top-down’ coercive mechanisms of EU influence and/or ‘bottom-up’ discursive or more voluntarist modes. At the same time, their definition embraces the possibility of recursive processes without however equating Europeanisation with the ‘emergence and development at the European level of distinct structures of governance’ (Risse et al. 2001). In this respect, the definition is not static. The point to be made here is that, over time, Europeanisation as a social concept that was developed within the European integration field (Caporaso, 2007) may prove even superior to rival and/or neighbouring terminology, most particularly that of ‘European integration’, thus superceding it. Despite the possible semantic impoverishment, this is hardly a rare phenomenon in social sciences. For example, some years ago, the concept ‘integration’ surpassed the term ‘spillover’ in EU scholarship. Without subscribing to such an ambition, we should nonetheless be realistic and acknowledge this possibility, particularly given that Europeanisation is a ‘circular

rather than unidirectional, and cyclical rather than ‘one-off’ (Goetz, 2000: 222) process of transformation of the European nation-state (Olsen, 1996).

Overall, within the literature of European integration Dyson and Goetz’s definition of ‘Europeanisation’ exhibits perhaps the highest degree of familiarity and possibly theoretical utility (to return to Gerring’s framework). In other words, ‘Europeanisation’ as defined here does indeed seem to constitute both an innovative concept and an exciting researchable theme. ‘Europeanisation’ exemplifies an analytical shift from the European level to the domestic. Therefore, it is a legitimate and indispensable concept to underpin empirical investigations on the processes and domestic consequences of European integration. As Paul Pierson (2004) has noted in a different context⁶, a focus on ‘Europeanisation’ as a process of domestic adaptation to European regional integration suggests new questions and reveals new outcomes of interest – questions and outcomes that are connected to, but distinct from, existing lines of inquiry. Yet, how you choose to look for things associated with the phenomenon at hand depends enormously on ‘what you think you are looking for’ (Pierson, 2004: 7). Therefore, one should pay due care to the concept’s semantic scope and, ontology *before* employing it (cf. Hall, 2003). Through this, this study evades the bulk of criticisms (Kassim, 2000) that were levelled against the usage of the term in European studies.

2.8. Conclusion

This chapter has proven more than anything else that concept formation and refinement is a daunting mental exercise leading to less than perfect outcomes. The term ‘Europeanisation’, like most other social concepts, has multiple meanings and therefore no clear boundaries. Researchers have used (and continue to use) the term in varying ways to describe multiple things and events which, nonetheless, have something to do with ‘Europe’. In the field of EU impact studies the conceptual unawareness witnessed here has resulted in what Giovanni Sartori (1984: 35) has called ‘collective ambiguity’: ‘a situation

⁶ Paul Pierson’s comments are oriented towards the concepts of history and time and their poor utilisation in social sciences.

in which (at the limit) each scholar ascribes his own meanings to his key terms'. Yet, recent work on the subject matter tends to clarify the concept's 'core' meaning in a direction that increasingly points to the interactive and variegated nature of the phenomenon (cf. Dyson and Goetz, 2003a; Bache and Jordan, 2006a; Radaelli and Pasquier, 2007; Featherstone and Papadimitriou, 2008; James, 2010).

Building on acclaimed epistemologists' guidelines of concept formation, this chapter tried to arrive at a definition which, on the one hand, has boundaries stable and as clear as possible and, on the other, illustrates the phenomenon's variegated nature. To that end, Dyson and Goetz's (2003a) definition was adopted. In a way, this definition strikes a balance between the concept's three constituent components: (i) label, (ii) intension and (iii) extension. First, the concept's label ('Europeanisation') seems to correspond considerably to the term's connotation (the shaping power of 'European integration'- as opposed to merely the EU) and to the referent (the object of analysis). Second, the characteristics or properties encompassed by the concept ('connotation') rest well with the referent since the object of analysis is the impact of European integration, defined with reference to its shaping power on the nation-state. Third, the concept's denotation is to a great extent safeguarded against neighbouring terminology (European integration, policy transfer) given the fact that the second defining attribute ('bottom-up') is primarily linked to the purposeful attempt of domestic actors to exploit European integration for their own reasons (be they materialist or ideational); thus, the 'extension' of the concept is limited. In recognising the evolutionary nature of social concepts I remain open to the possibility that concepts may be (and most often are) adjusted as research accumulates and matures.

The next chapter presents the theoretical underpinnings of this study, offering together with this chapter a coherent analytical framework for gauging the effects of European integration in the political context of Croatia.

3

Theorising Institutional Evolution: New Institutionalism, Transition Theory and Europeanisation

3.1. Introduction

As was shown in the previous chapter, Europeanisation's significance as a distinct concept employed to gauge the effects of 'Europe' (particularly the EU) on the national European settings lies in its exclusive conceptual capacity to 'cut across the domestic and the EU levels of politics', as its usage is 'intended to stress the interdependence of forces between the two' (Featherstone and Kazamias, 2001: 5). But as Vink and Graziano (2007: 10) rightfully note, Europeanisation 'is basically agnostic on the questions whether pressure from either specific European models or more indirectly from new opportunities and constraints results in political change'. In short, Europeanisation is not itself a theory of institutional development (cf. Bulmer, 2007). This in turn generates major potential risks when the concept 'Europeanisation' is not carefully applied by analysts. As Goetz (2001: 211) has cautioned, Europeanisation can very easily become 'a cause [i.e., the EU] in search of an effect [at the domestic level]' (quoted in Bulmer, 2007). In response, various models, frameworks or approaches have been developed over time by analysts gauging the

process of national institutional development under EU influences. Europeanisation has reached a stage of sophistication and conceptual richness as the vast majority of its theoretically-informed explanations has been built explicitly on the various theories of ‘New Institutionalism’ (NI) (cf. Bulmer, 2007).

In explaining institutional development under EU influences, this study opts for a middle position among the three more influential strands of NI (in particular a historical variant of rational choice institutionalism), arguing that, ‘In studying the social world, we need to adopt multiple angles, or be willing to rely on the help of others, to see more clearly’ (Pierson, 2004: 178). Notions such as ‘embedded rationality’ (Jacoby, 2004), ‘institutional development’ and ‘historical context’ (Pierson, 2004, Thelen, 2004) promise to offer a ‘thicker’ and historically-oriented explanation for the phenomenon of Europeanisation of Croatian politics, thus responding to calls for ‘theorising over time’ in Europeanisation debates (cf. Bulmer, 2007: 56). Hence, this study applies two major types of tests. The first one, commonly termed as a test of the ‘impact of Europeanisation’ (cf. Featherstone and Papadimitriou, 2008), concerns Croatia’s adaptation to EU membership stimuli. Most writing on the Europeanisation of candidate states employs a ‘top-down’ rationalist view in explaining domestic adaptation in response to EU incentives. Prominent in the relevant literature is the argument of conditionality. But critics assert that the conditionality argument, taken alone, significantly downplays the role of the domestic context in conditioning reform outcomes. Thus the chapter also discusses a second test, namely how the domestic institutional structures and actors channel and process foreign incentives in a path-dependent manner, resulting possibly in ‘bounded transformation’ or ‘shallow Europeanisation’. Given that Croatia is a post-communist transitory state, the literature on post-communist transformation seems a suitable theoretical reservoir for domestic explanatory variables as they relate to the phenomenon of institutional evolution. A discussion of the inherent limitations of both bodies of literature follows, with a subsequent elaboration of this study’s so-called *pluralist* ‘bottom-up-down’ analytical design. The chapter concludes with a discussion of the explanatory variables that guide the analysis in the later case studies.

3.2. The new institutionalism in Europeanisation debates

In its approach, this study about the impact of European integration on Croatia's political institutions and public policies falls within the broad framework of NI. As Orren and Skowronek (1994: 311) note, 'New institutionalism is a label associated with many different scholarly agendas'. Indeed, over time 'institutions' have been approached variously as 'normative entelechies, as system balancers, and as game forms' (ibid: 312). For Hall and Taylor (1996) NI's analytical approaches boil down to three broad schools of thought⁷: Historical Institutionalism (HI), Rational Choice Institutionalism (RCI), and Sociological Institutionalism (SI). All three sub-variants of NI depart from the key assumption that 'institutions are the foundation of all political behaviour without which there could be no organised politics' (Steinmo, 2001: 1). This is because institutions *structure* politics by (i) defining who is able to participate in the particular political arena; (ii) shaping the various actors' political strategies; and more controversially, (iii) influencing what these actors believe to be both possible and desirable (ibid).

Given that all three NI traditions are so well established in the relevant literature, the next sections review briefly the basic tenets, strengths and weakness of each of them with particular reference to their major heuristic devices as these have been applied in the Europeanisation debates. Next, the chapter goes on to present this thesis's epistemological position on the issue of national institutional development under foreign (EU) direction, opting for a historical institutionalist approach, albeit one which stresses a rationalist rather than sociological epistemological position.

3.2.1. Rational choice institutionalism (RCI)

In trying to answer the questions of 'what an institution is an instance of' and 'how structures relate to actors', RCI places emphasis on the argument that institutions are stable and formal constraints on political behaviour that are created and developed *intentionally* in order to contribute to the efficient political conduct of the actors and the outcomes (i.e., maximise their self-interest; Hall and Taylor, 1996). Thus, for RCI scholars 'institutions' are seen as an 'opportunity structures' which can constrain or enable actors' strategic orientation, but cannot shape or define their 'pre-existing' and utilitarian calculus (i.e., behaviour). Thus, in contrast to SI scholars, advocates of RCI posit that actors' rationality

⁷ Vivien Schmidt (2005) has elaborated a so-referred fourth variant of NI called 'discursive institutionalism'.

and preferences are ‘exogenously’ defined and, therefore, incapable of shifting over time since actors are only motivated by their ‘exogenous’ given preferences to maximise the utility of their desires in a strategic cost-benefit fashion.

Turning to the questions of institutional genesis, persistence and/or change, RCI scholars explain the roots of an institution heavily in terms of the ‘effects’ or ‘functions’ that follow from its existence (cf. Pierson, 2004). Institutions are thus created and persist because they offer efficient solutions to individual and collective problems and because they reduce transaction costs (Williamson, 1975; Moe, 1984). In doing so, they solve problems of collective action by altering the strategic context in which individuals calculate their self-interest (Orren and Skowronek, 1994: 315). Regarding change, departure from ‘order’, conceived here as *equilibrium*, is not to be expected since change implies enormous *uncertainty* which, in turn, makes actors unwilling to change the given structure (Shepsle, 1986). But, what do rational choice institutionalists have to say about genuine institutional transformation? The most powerful explanation given by RCI scholars is that change in any system is a product of *extraneous* shocks that (temporarily) upset or ‘punctuate’ the set equilibrium and lead (eventually) to a new equilibrium (cf. Greif and Laitin, 2004: 633; Pollack, 2007: 47-48).

According to critics RCI models suffer from two main defects. First, due to their over-reliance on the ‘functionalist’ end of institutions, they find it hard to account for ‘dysfunctional institutions’; thus they provide ‘a restricted vantage point for understanding why institutions take the forms that they do’ (Pierson, 2004: 105). Second, RCI approaches tend to focus on ‘moments of institutional choice’ rather than on ‘institutional development’ and therefore they reduce a ‘moving picture to a snapshot’ (ibid: 104). In so doing, RCI scholars run the risk of ‘missing crucial aspects of the process through which formal institutions take shape, as well as the ways in which they either endure or change in social environments that are themselves constantly changing’ (ibid).

In linking RCI to Europeanisation research, two broad hypotheses have been set forth. First, national actors – whether these be governments, parties, interest groups, firms - pursue material interests with a view to maximising their individual satisfaction. Second, European integration offers them real material ‘opportunities’ to effectuate their interests in light of domestic constraints (Börzel and Risse, 2003; Schimmelfenning and Sedelmeier,

2005b). Institutions are regarded here in their most minimalist or narrow sense as being simply opportunity structures (opened up by European integration) or veto points; thus, actors seize the available opportunities or are blocked by the veto points (cf. Bulmer, 2007). To give an empirical illustration: Dyson and Featherstone (1996, 1999) suggested that in Italy technocrats viewed European Monetary Union (EMU) as an external constraint (*'vincolo esterno'*) which allowed them to impose fiscal and monetary discipline on the often-errant instincts of politicians in the old *'partitocrazia'* (cited in Featherstone and Kazamias, 2001).

3.2.2. *Sociological institutionalism (SI)*

Advocates of SI posit that human reason is not only affected by institutions, but is 'socially constructed' as it is contingent on existing environmental, cultural and historical priors. Individuals respond to a given situation and accomplish certain tasks by interpreting, editing and translating social impulses through the means infused to them by the scripts and templates implicit in the existing institutional world within which they are *embedded* (Hall and Taylor, 1996). Therefore, actors' behaviour is motivated by *internalised* identities, values and norms they deem as 'socially appropriate' (cf. Powell and DiMaggio, 1991). Regarding institutional genesis and evolution, SI contrasts with 'consequentialist' RCI explanations in that institutions are created and developed for social purposes, that is, because they provide enhanced social legitimacy (which itself may not be optimal at all), rather than material efficiency to their designers, in a world already replete with (dysfunctional) institutions. Compared to RCI, this broader understanding of the origins of an institution provides a more promising explanation of the ubiquitous phenomenon of inefficient social and political institutions that RCI finds hard to explain. A second important virtue of these accounts lies in their ability to unpack the shared understandings and norms that structure action and shape identities/interests. As such, SI is often better for clarifying the dimensions of the relationship between institutions and behaviour that may not be always instrumental.

However, SI accounts are not without their drawbacks. First, because of their heavy emphasis on induction, their arguments are, more often than not, not structured as distinctive 'cause-effect' hypotheses. In this respect, they have 'trouble with positivism' (Checkel, 2007: 59) since they resist testing against alternative propositions (such as those

offered by RCI; see also Moravcsik, 1999: 670). Second, given that SI theories ascribe causal power to existing social institutions and ideas on shaping actors' preferences, rationalists question this very 'endogenous' ontology by simply asking 'whence do these ideas and discourse come' in the first place (Moravcsik, 1999: 671)? SI accounts can also be too static or equilibrium-focused (as RCI are), missing thus the conceptual tools for explaining change over time (see HI). Lastly, with its emphasis on 'social appropriateness' SI may neglect that many actors in society have deep and competing stakes over certain institutional solutions, meaning that institutional genesis can also follow such power struggles and contain stories of victory and defeat. Thus, much like HI (see below), macro-pattern accounts of SI may look like 'action without agents' (Hall and Taylor, 1996: 954), or, worse, structures without agents (Checkel, 1998: 335); thus, extremely structuralist (Schmidt, 2005: 109).

Arguably, Europeanisation research has offered sociologists a fertile ground to construct their worldviews in the form of testable hypotheses (and contrast them with rival rationalist hypotheses) (cf. Börzel and Risse, 2003; Schimmelfenning and Sedelmeier, 2005b). Much like rationalist Europeanisation literature, sociological Europeanisation posits two main arguments, albeit grounded in a different reasoning. First, 'dense institutional environments' such as the EU tend to interact with other organisations or countries (cf. Powell and DiMaggio, 1991). These 'socialisation' processes are in turn an effort to reform the national institutional settings of target states to 'fit' the EU's institutional environment. Chronic interaction may result in 'mimetism' or 'institutional isomorphism', that is, the creation of new institutions within the socialised environments that, over time, resemble structurally those of the socialiser (EU). Second, EU norms, rules and/or institutions must resonate with established national practices, values and culture for otherwise Europeanisation will not take place. It follows that the higher the degree of normative 'fit' (cf. Risse et al. 2001) between the two settings (the European and the national), the easier the 'diffusion of norms' through 'social learning' and national adaptation, since domestic actors are 'persuaded' by the appropriateness of EU rules (cf. Börzel and Risse, 2003; Checkel, 2001; Schimmelfenning and Sedelmeier, 2005b: 18). In short, national actors learn to internalise EU norms and values in order to become members of the EU community in 'good standing' (cf. Finnemore and Sikkink, 1998; Checkel, 1998).

3.2.3. *Historical institutionalism (HI)*

Advocates of HI posit that ‘in the long run, actors’ very identities may be powerfully shaped by institutional arrangements’ (Pierson, 2004: 152; cf. Steinmo et al. 1992). Thus, HI scholars answer the key questions of ‘what an institution is an instance of’ and ‘how it affects actors’ choices’ by endorsing both RCI and SI central hypotheses, albeit collapsed in the notion of ‘sequencing’ (cf. Pierson, 2004: 54-78). In the short-term institutions can structure (constrain or enable) actors’ strategies; over a longer period, they can have deeper constitutive effects on actors as strategies, initially adopted for self-interested purposes, become ‘locked into’ the institutional context (Pierson, 1996, 2004). In fact, HI models stress the way actors adapt to institutions and invest in the ability to work within the rules and procedures of given structures. Much alike SI scholars, advocates of HI regard thus interests *contextually*, that is, structured and/or shaped by the idiosyncrasies of a given institutional setting rather than universally defined as by RCI scholars (Thelen, 1999).

When it comes to explaining institutional stability, HI seem more promising than the other two variants given its eclectic and selective tendency to accommodate insights from both RCI and SI, placing them in a temporal ordering where causes and effects are located in particular time locations (Hall and Taylor, 1996: 950). Regarding institutional continuity, HI scholars have heavily drawn from historical accounts in economics which pioneer the notions of ‘path dependence’ and ‘increasing returns’ (e.g. Arthur, 1994; North, 1990). Once an institution is established and branched into a particular historical ‘path’ of development and insofar it is characterised by re-inforcing ‘increasing returns’ (built-in positive incentives to remain ‘sticky’) cumulating through time, actors get ‘locked into’ (cf. Pierson, 1996) and have no incentive to abandon this increasingly consolidated ‘institutional equilibrium’ even in the face of considerable change of the conditions that initially produced it (Pierson, 2004).

But, how do HI approaches theorise the causes of institutional birth and change? Most HI accounts posit two main motors of institutional development: ‘institutional misfit’ and ‘external shocks’. Similar to SI, the notion of ‘misfit’ in HI points towards the incongruence between prevailing institutions and corresponding problems sets at any given time. In short, this ‘misfit’ acts as a potential driving force for institutional change (Knill, 2001; Bulmer and Burch, 2001). In a related way, HI has also emphasised the way in

which effective institutions may well have antecedents that are ineffective (as in the case of EMU). Regarding external shocks, much HI work has emphasised the role of ‘critical junctures’ (Collier and Collier, 1991), that is, occasional moments of extreme openness in which opportunities for path-breaking reforms generated by major ‘external shocks’ appear (Krasner, 1988), punctuating temporarily the existing equilibrium and re-settling it on a particular new path where reinforcing (stabilising) incentives unfold over time.

HI has two major defects. On the one hand, given its heavy reliance on the ‘weight of history’ in shaping institutional development, it does not account sufficiently for substantial transformation and/or innovation, with the exception of the rare critical moments of externally induced major disruption of continuity (Streek and Thelen, 2005: 8). Here, domestic institutions are considered to be ‘sticky’ when ‘adaptive and reproductive’ incremental adjustments happen, mostly leading to ‘minor’ change (ibid). In this respect, most HI literature tends to distinguish between periods of institutional creation and periods of ‘stasis’, thus drawing a sharp line between theories of stability and theories of change (Thelen, 1999: 19). On the other hand, similarly to SI, HI is, more often than not, biased towards structure and against the purposeful agency. More specifically, domestic institutions structure the process and the outcome of institutional development (they take on a ‘life of their own and become genuinely independent causal forces in shaping further institutional development’; cf. Pierson, 2004: 131) with little or no room for agency (Katznelson, 2002; Streek and Thelen, 2005: 8).

In the context of Europeanisation HI analysis is concerned with the temporal dimension (time, timing and tempo; cf. Schmitter and Santiso, 1998) of domestic processes of adjustment to the EU. To give an empirical example: much HI writing has concentrated on the creation, persistence and adaptation over time of the EU coordination systems of member states (and recently accession states; cf. Dimitrova and Mastenbroek, 2006). Bulmer and Burch (2001; 2006) have authoritatively written on the adaptation of the UK and German executive machinery to European integration impulses. Although their study was not couched in the language of ‘Europeanisation’, Kassim and his colleagues (2000) examined the domestic structures and processes established to develop negotiation positions in ten of the member states. All these studies share a common conclusion:

adaptation has been slow and incremental, taking place within the constitutional and broader cultural traditions of a given country.

Notwithstanding their common ground (i.e., that ‘institutions matter’), the three strands of NI disagree on the key ontological questions of (i) what an institution is an instance of; (ii) what role institutions play in determining social and political outcomes; (iii) how to interpret the relationship between structure (institutions) and agency (political behaviour); and (iv) what are the causes of institutional genesis, persistence and change. Thus, they neither agree on a single and commonly shared definition of institutions, nor on a unified research programme or methodology (Immergut, 1998: 5). As Featherstone and Kazamias (2001: 9) rightfully contend ‘The choice of approach much be related to the empirical task at hand: different lenses will capture distinct aspects of a large and multi-faceted subject’ (Checkel, 1999). Put another way, each NI ‘theory is plausible, but partial’ (Jacoby, 2004: 31). Europeanisation is an enormous regional social phenomenon that conditions, in multiple ways and through various routes, national systemic-, institution- and policy-related responses and/or actions. The key point here is that we need a more ‘pluralist’ approach to make sense of large and complex social phenomena such as ‘Europeanisation’.

Whilst such an endeavour may seem as unusual in social sciences, it is hardly unprecedented. For example, in the field of post-communist emulation under foreign direction, the works of Wade Jacoby (2004) and Rachel Epstein (2008) provide genuine attempts to integrate competing NI accounts. While for the former scholar the key notion is ‘embedded rationality’, for the latter it is the ‘social context’. Börzel and Risse (2003) juxtapose ideational and materialist variables with the HI notion of ‘goodness of fit’ in debates about Europeanisation in EU member-states, whereas Paul Pierson (1996) has employed a synthesis of RCI and HI to explain the course of European integration over time.

Overall, in light of Pierson’s (2004) recent prospectus for more pluralistic theoretical studies underpinned by a greater analysis of the ‘politics of time’, the present study takes a middle ground between RCI and HI, contending that different theories might contribute distinct ‘modules’ that can potentially be linked to produce more complete accounts (cf. Scharpf, 1997; cited in Pierson, 2004). In other words, in this thesis RCI and HI are treated

as complementary rather than mutually exclusive ‘theoretical imageries’ (cf. Jepperson, 1996). The next section sets forth this thesis’s pluralist epistemological approach.

3.3. A pragmatic approach between RCI and HI: The heuristic notions of ‘embedded rationality’ and ‘institutional evolution’

Echoing the arguments for more theoretical ‘pluralism’ in the social sciences (cf. Pierson, 2004; Scharpf, 1997), Wade Jacoby (2004: 29) speaks of a ‘juxtaposition’ of theoretical traditions for pragmatic reasons ‘when describing situations in which these traditions complement each other’. The notion of ‘embedded rationality’ (i.e., contextually embedded human reasoning; see below), as pioneered by Jacoby (2004), should not be misread however, as a means to integrate NI’s distinct bodies of theory⁸. Rather, given that each NI ‘theory is plausible, but partial’ (ibid: 31), the notion of ‘embedded rationality’ offers a ploy to eschew the most diverse parts of institutionalist theories and ‘synthesise those aspects of theory traditions that, for all their differences, share a core proposition that *rationalism* plays a central role in political life’ (ibid; emphasis added).

But, what does the concept ‘embedded rationality’ mean? In its most abstract version, it denotes the embeddedness of human reason in the institutional environment within which actors’ behaviour is practised. Drawing inspiration from all three NI perspectives, Jacoby (2004) suggested that actors’ rationality is embedded within two contexts: norms and history. Adjusted in the research framework of ‘emulation as embedded rationalism’, Jacoby (2004: 20) assumed that CEE elites acted rationally in the face of two kinds of material incentives (RCI): from their voters and from the IOs themselves. The national ‘institutional context’ mattered to the extent that, first, these material incentives were contingent upon normative models (SI) that specified much of the institutional design elites pursued and, second, history (when present) (HI) together with conservative actors deflected the reform course charted by the reform elites (ibid: 20-21, 30).

⁸ For a good recent summary of the epistemological difficulties with theory synthesis projects, see Checkel, 2004.

SI theory with its focus on norms and cognitive maps possibly offers a more robust explanation (when compared to RCI) as to why IOs try to influence their environments and/or why national elites ‘comply’ with IO demands (see above; cf. Epstein, 2008). Nevertheless, for practical rather than epistemological reasons this study does not directly deal with ideational variables such as diffusion, socialisation/social learning beliefs and discourse. I have opted for a research agenda that is manageable, as opposed to trying to research an extensive list of material and non-material variables which in the end become unmanageable. This is supported by the fact that next to no empirical work has been done on the subject of Europeanisation of Croatian politics. Again, can one understand the discursive construction of reality, without a description (or implicit understanding) of the reality in the first place? Indeed, many would agree that most scholars who take a constructivist approach still accept that material structures are important. Finally, considering that institutional changes linked to enlargement and post-communist transformation are still comparatively recent, it is too early yet to tell whether the outcome of formal (material) change will be translated into ‘structuration’ and ‘routinisation’, i.e., ‘institutionalisation’ (Olsen, 2000: 4-5). Although not disregarded in the empirical analysis altogether, for all these reasons, SI variables will not be directly operationalised in this study. Addressing SI concerns will be beyond the scope of this thesis and an important task for future research on the impact of EU enlargement.

If SI finds it hard to explain domestic change beyond the notions of ‘institutional isomorphism’, RCI approaches, taken alone, may significantly underplay the role of time and history in conditioning institutional developments, as their focus on ‘moments of institutional choice’ runs the risk of confusing the ‘catalyst’ with the ‘trigger’ of institutional development. Paul Pierson (2004: 164-165) eloquently summarise the point:

‘Agents of change may play the starring role in the dramatic conclusion, but their appearance in the final chapter is often heavily dependent on preceding developments occurring over an extended period [...] Long-term processes, which are typically invisible in ‘snapshots’ studies of political phenomena, will often be crucial in creating the preconditions for institutional reform. These processes might operate mainly to gradually diminish the benefits associated with a particular institutional arrangement, or they might have the effect of reducing the costs of mobilising for institutional change’.

In effect, irrespective of whether institutional change or design is induced externally or internally (or is mutually constituted), institutional reform in ‘snapshot’ explanations

appears, more often than not, to take place ‘relatively quickly’ (ibid: 165). This line of explanation may obscure ‘the deeper changes in opportunity structures that made these challenges to the institutional status quo viable’ (ibid). But rationalist explanations of institutional origins and change ‘are not wrongheaded, but they are radically incomplete’ (ibid: 131). Therefore, we need to adapt the rich rationalist arguments on institutional choice, with their characteristic concentration on immediate political and policy outcomes, ‘to the distinctive problem of how established institutions modify the prospects for further institutional change’ (ibid: 131-32). By so doing, one is better placed to ‘move beyond a focus of institutional choice to the sustained study of institutional development’ (ibid: 132). Put another way, we need to ‘explore how and why institutional arrangements adapt, or fail to adapt, to a variety of pressures for amendment or replacement occurring over an extended period of time’ (ibid: 172).

The concept of ‘institutional evolution’ as pioneered by Paul Pierson (2004) and Kathleen Thelen (1999, 2003, 2004) complements Jacoby’s (2004) notion of ‘embedded rationality’ in that it points to the dynamic process of institutional birth, persistence, change and/or death. In this context, Europeanisation incentives (when present) are ‘enmeshed’ within the domestic setting and thus are processed, channelled or constrained by existing domestic factors, be they previous institutional arrangements or decisive actor constellations at the moment of change or a combination of both (cf. Radaelli and Pasquier, 2007). In this context, Europeanisation processes are but one kind of pressure for ‘amendment or replacement’ that national actors are confronted with, to return to Pierson’s argument.

The point to be made here is that any approach to institutional reform under indigenous and/or extraneous pressures needs to take into account the importance of institutional legacies (when present). It should also be time-oriented and conceive the whole process as a matter of ‘institutional evolution’ rather than merely ‘choice’ (Pierson, 2004: 133; Thelen, 1999, 2003; Orren and Skowronek, 1994). As Pierson (2004: 167; emphasis added) nicely puts it, ‘Placing social analysis in *time* implies recognising that any particular moment is situated in some sort of temporal context – *it is a part of an unfolding social process*’. Institutions are understood here broadly as encompassing ‘the rules of the game in a society, or more formally, [...] the humanly devised constraints that shape human interaction’ (North, 1990: 3). While actors’ interests are influenced in the short-

term by structural constraints, institutions may over time *determine* actors' identity and behaviour given that,

'Actors do not inherit a blank slate that they can remake at will when their preferences shift or unintended consequences become visible. Instead, actors find that the *dead weight* of previous institutional choices often seriously limits their room for manoeuvre...Any revisions that do occur will often be *powerfully constrained* and *channelled* by previous institutional choices and the processes those choices unleash... Institutions themselves shape the parameters of future institutional development' (Pierson, 2004: 151- 152; emphasis added).

In this respect, powerful inertia (i.e., a condition of non-change) is assumed to characterise many aspects of political development. In 'reconciling' HI with RCI, Paul Pierson (2004: 142-153) summarises the 'brakes' of institutional evolution as follows: (i) *veto-points* (cf. Immergut, 1992), that is, non-physical points that structure decision-making and are very difficult to be revised such as constitutional rules; (ii) formidable *coordination difficulties* and *uncertainty* arising from a decision to depart from an existing equilibrium; (iii) *asset specificity*, whereby actors adapt their expectations to existing arrangements just because they invest 'specific assets' on them (e.g., relationships, expectations, privileges, knowledge of procedures) and therefore are reluctant to run risks of any change; and (iv) *positive feedbacks*, that is, strong endogenous dynamics arising from coordination incentives and/or accumulation of individual and organisational commitments as well as from the development of strong inter-linkages among dense institutional environments over time (North, 1990).

Indeed, all of this could be read to suggest 'that once institutions are designed they become 'frozen' or 'locked in' – in short, as a denial of the possibility of institutional change' (Pierson, 2004: 153). But, this is hardly the case in social life. Although continuities are a striking feature of the social world, Pierson continues (ibid): 'Asserting that the social landscape can be permanently frozen is hardly credible, however, and that is not the claim. Change continues, but it is bounded change – until something erodes or swamps the mechanisms of reproduction that generate continuity'. Drawing on rationalist accounts, a number of HI scholars have emphasised that a key factor in institutional change is the role of 'losers' from previous stages of institutional selection (cf. Alexander, 2001; Clemens and Cook, 1999; Thelen, 2004; cited in Pierson, 2004: 154). According to Clemens and Cook (1999: 452; cited in Pierson, 2004), 'Groups marginal to the political system are

more likely to tinker with institutions... Denied the social benefits of current institutional configurations, marginal groups have fewer costs associated with deviating from those configurations'. 'Actors who are aggrieved but not co-opted' (Schneiberg and Clemens, 2006) are, therefore, important sources of pressures for institutional change.

Yet given the fact that these reform-oriented actors operate within a given 'set of rules', the extent and success of their *voluntarilistic* actorness hinges, ultimately, on the very enabling or constraining structural elements against which their 'next steps' are often inevitably negotiated (Thelen, 2003: 220). This is where the argument of 'bounded change' (cf. Weir, 1992; North, 1990) enters the scene. The more stable and embedded in time institutions are, that is, the extent to which institutions constitute 'deep equilibria' (Young, 1998), the more incremental their revision is likely to be (Knill, 2001). Again, this is not to deny instances of institutional innovation. Notions such as 'critical junctures' (Collier and Collier, 1991) and 'punctuated equilibrium' (Krasner, 1988) are highly relevant here.

Whilst such assumptions seem powerful, they, nonetheless, tend to obscure the fact that even in these highly 'unsettling' times some institutions might not be constructed *ab ovo*, but may be designed in antithesis and/or parallel to previous arrangements (Pierson, 2004) or even within the dismaying, albeit not yet dismantled, *ancien régime*. In this respect, dismantled or dismantling structures may exert a certain degree of influence on the institutional choices of reformers. Thus, agency and structures become closely intertwined. This is where this study builds on Thelen's (2004: 35) contention that 'Elements of continuity and change are not separated into alternating sequences [stasis-change-stasis] where one or the other (let alone 'agency' or 'structure') dominates, but rather are often empirically intertwined'. Yet, this is not to deny 'sometimes institutional change is abrupt and sharp' (ibid), but to argue that 'replacement', as invoked implicitly by traditional HI accounts, tends to ignore that often large-scale *disjunctures* such as revolution, warfare or socio-economic transition do not entail simply the wholesale disappearance of the previous institutional system. As a large number of studies have pointed out in the case of post-communist Europe, even in such extraordinary times of social transformation some elements of the past will, more often than not, persist (in the form of institutional legacies) and comprise a 'blend of old and new structures' (Inglot, 2003: 6; cited in Thelen, 2003:

227) grafted together with the new institutions, rather than a purely *anew* context (cf. Stark and Bruszt, 1998; Nunberg, 1999; Dimitrov et al. 2006).

In sum, placing RCI within HI serves a quadruple function: (i) it places the analytical focus on the hitherto much neglected domestic context and its actors, who, in the end, are those who download and shape foreign rules; (ii) it responds to Simon Bulmer's (2007) call for a Europeanisation agenda that 'theorises over time'; (iii) by so doing, it injects more dynamism into the phenomenon of 'Europeanisation' in the case of candidate countries by accounting for the temporal dimensions of the processes of 'domestication of Europe', that is, for the conditions of 'politicisation', 'resilience' and 'institutionalisation' of EU rules in the domestic arena (cf. Radaelli and Pasquier, 2007); and (iv) it resonates well with the definition of 'Europeanisation' adopted here. As argued in the previous chapter, Dyson and Goetz's (2003a) conceptualisation allows for both the causal role of structure and agency and points to the multiple effects of Europeanisation, including continuity and change. In this respect, Dyson and Goetz (2003a) recognise both the 'transformative power of Europe' and also the resilient and countervailing nature of domestic factors such as path-dependence and its re-inforcing elements.

3.4. Explaining institutional development in post-Communist Europe

Having set forth the 'pluralist' epistemological approach of this thesis, I must now review the two broad and rich explanatory traditions in the literature on institutional development in post-communist Europe. Thus far, scholars have approached the social phenomenon of institutional reform in post-communist transitory societies mainly from two distinct angles: the 'domestic' and the 'external'. Initial work on the post-communist transition and transformation in Eastern Europe concentrated mostly on domestic factors and for quite a while neglected the importance of the EU (and/or other IOs) for domestic processes. In so doing, 'transitologists' crucially underestimated enlargement's significance for, and impact on, national political processes (cf. Dimitrova, 2004b: 5). On the external track, the so-called 'candidate Europeanisation' (cf. Sedelmeier, 2006) strand within the broader Europeanisation discipline in EU scholarship has exhibited a 'certain imbalance' in favour of foreign mediating factors in explaining domestic institutional reform. In doing so, critics argue, they have seriously downplayed the causal role of indigenous factors in conditioning institutional change or design (Hughes et al. 2004; Brusis, 2005; Zubek,

2008; Elbasani, 2009). In fact, the two literatures depart from opposing vantage points. Transitology (as part of Comparative Politics) uses a 'bottom-up' lens to explain institutional reform, whereas Europeanisation (as part of International Relations) uses a 'top-down' (from the EU to the national). The next two sections review the basic tenets, strengths and weaknesses of each body of literature with the aim of arriving at a 'bottom-up-down' research design to underpin empirical analysis in Croatia's institutions.

3.4.1. The domestic context: History, transition and post-Communist transformation

Given that the unit of analysis of this thesis is a post-communist state of the 'Western Balkans', a brief overview of the transition literature seems in order. This is all the more true because historical antecedents (pre-communist, communist era, the extrication from communism) may have conditioned further institutional development even if this has taken place under foreign (particularly EU) influences.

Following the fall of the Berlin Wall in the 'miraculous' 1989, Transitology - comparative research on the authoritarian/totalitarian regime expiration, democratisation and consolidation of democracy - became a very fashionable research area in European social sciences (Schmitter and Karl, 1994; Linz and Stepan, 1996). Initial work concentrated on and tried to explain therefore the modes of communist collapse and the subsequent divergent post-communist trajectories in Eastern Europe, including in former Yugoslavia. The so-called 'problem of simultaneity' (Elster et al., 1998) or 'triple transition', i.e., polity-building, nation-building and market-building processes, informed most transition research aimed at disclosing the conditions of (un)successful transformation from a command one-party economy to a market democracy. 'Transitologists' stressed that the 'problem of simultaneity' involved the making of crucial institutional choices more or less simultaneously as well as dealing with the historical legacies (pre-communist and communist) of past social orders and the immediate effects of the nature of regime extrication (violent or peaceful).

As regards the impact of historical legacies, Kitschelt et al. (1999: 21-28) developed a typology of post-communist regimes grounded in the distinction between patrimonial and bureaucratic legacies of communist and pre-communist political rule. They argued that countries with largely traditional societies developed a sort of 'patrimonial communism',

i.e., a system of government characterised by the ruler's 'cult of personality', patronage, and a low level of rational-bureaucratic institutionalisation (cited in Brusis, 2004). This pattern of patrimonial governance was accordingly informed by a subordination of facade-type rules to personal relations and power struggles, a high degree of informality, clientelism, corruption, and the predominance of identity politics following a confrontational, zero-sum logic (Brusis, 2004: 169; cf. Elster et al. 1998: 302; Diamandouros and Larrabee, 2000). In contrast, countries entering the period of communist rule as industrialised societies (most notably, nations under the Hapsburg Empire) developed a bureaucratic-authoritarian pattern of governance, where an ideologically committed planning technocracy ruled a well-functioning bureaucratic machinery. Accordingly, a governance system shaped by the bureaucratic legacy was deemed to be characterised by a high degree of rule compliance and abidance, the construction of legitimacy through legal procedures, the use of law as an effective instrument to structure relations, hierarchic subordination, professionalist values, and the prevalence of interest politics based on a bargaining logic (cited in Brusis, 2004: 169 cf. Diamandouros and Larrabee, 2000). It seemed therefore plausible to these authors that these historical legacies would have a differential impact on the pattern of polity-building in post-communist Europe.

However, for some regional specialists the particular *mode* of regime expiration was an important variable when it came to explaining the institutional outcomes which eventually shaped the new polities (cf. Bruszt and Stark, 1992; Alexander and Skapska, 1993; Elster et al. 1998). Drawing on earlier comparative research, Elster et al. (1998: 56-57) distinguished between two extreme cases of regime extrication. In the peaceful/civilian pattern of the so-called 'Round Table Talks' (RTT) communists negotiated the fate of the new polity with the emerging opposition/new rulers. By contrast, the violent/military mode is characterized by the breakdown of the old regime and the subsequent construction of new polities carried out by 'fire and iron' (as in Croatia; see Chapter 4). For these authors (1998: 57) the 'RTT' 'helped to avoid violent forms of the downfall of the old regime and hence provided the most important conditions for the peaceful formation of a democratic order'. Thus, there was a positive causal correlation between peaceful regime breakdown and subsequent democratic development. In contrast, patterns of violent regime downfall and subsequent state dissolution, such as those evident in the case of some former

Yugoslav republics (Serbia-Montenegro, Croatia and Bosnia-Herzegovina) cast doubt on the heavily deterministic argument of historical legacies. Indeed, Yugoslavia as the most economically and politically advanced communist state in Eastern Europe did not fare the best in transition compared to the 'backward' Baltic states with their heavy Soviet heritage (cf. Pridham and Gallagher, 1999; Batt and Wolczuk, 1999). The contingent factor of agency was thus an important yet neglected one in transition theory. This is where the strikingly weak 'transformative agency' at the moment of regime breakdown stood out, to use Katznelson argument (2003), making choices for future reform trajectories. Yet, theorists such as Elster et al. (1998) and Burszt and Stark (1998) cautioned that this voluntaristic pattern of actorness was itself a by-product of the regime's decay rather than its cause:

'There was no counter-elite, no theory, no organization, no movement, no design or project according to whose visions, instructions, and prescriptions the breakdown evolved. Rather than agents intentionally causing the outcome, the events that foreshadowed the ultimate outcome *gave rise* to and encouraged agents, movements, and projects...[In this respect] Both the destructive and constructive outcomes must be seen, instead, as being brought about through rather anonymous contingencies that follow a logic of 'all causation, but (almost) no intention' (Elster et al., 1998:11, 14-15).

As there was no clear answer as to which factor(s) made the old order wane (cf. Batt and Walczuk, 1999: 45), there was no answer as to who was entitled to lead the society into a better future. Elster et al. (1998: 15-17) suggested a typology of three contextual factors which, in one way or another, influenced the reform course and made new and old elites compete as to the desirable shape of the new polities. They contended that what they called the 'distant past' (pre-communist periods), the 'immediate past' (communism) and the 'modern West', respectively influenced the orientation of the institutional choices made by reforming elites. The ('distant' and 'immediate') 'past' could shape values, beliefs, habits and frames of the peoples in CEE, serve as a constraint on political actors' behaviour, work as a model or focal point in the search for new economic and political institutions, as well as provide a repertoire of arguments that could be used in political discourse (ibid: 60-62). At the same time, Western-oriented modernisers were provided by the 'modern West' ready-made institutional templates from the OECD/EU world, as well as a favourable reform discourse. The emulation and subsequent patchy implantation of Western institutional models grounded in the 'return to Europe' normative frame equipped ruling

elites with a strong ‘transformative’ discourse, enabling them to pursue socially painful reforms in light of the strong identification of CEE peoples with west Europe (cf. Epstein, 2008; Schimmelfennig and Sedelmeier, 2005b; Grabbe, 2001, 2003).

While initially emulation was voluntaristic in nature, it progressively became subject to EU-guidance and conditions as post-communist countries, such as Poland and Hungary, became beneficiaries of the European Communities through the 1989 devised PHARE programme. The subsequent EU-CEECs contractual relations marked a turning point both for the transitory region as transformation processes became closely intertwined with ‘Europeanisation’ and for the emerging EU given that its 1993 Copenhagen criteria would frame its normative outlook as a democratic and market-oriented ‘multi-level polity’. As a result, the CEECs found themselves under foreign direction (most notably that of the EU) when creating and consolidating their new institutions, public policies and normative frames. Accordingly, the literature on ‘candidate-state Europeanisation’ (cf. Sedelmeier, 2006; Schimmelfennig and Sedelmeier, 2005a; Kelley, 2004; Jacoby, 2004) emerged in the context of eastern enlargement and since then analysis of post-communist institutional development has been undertaken within the framework of EU conditional incentives.

3.4.2. The European context: Enlargement, conditionality, and Europeanisation

The CEECs occupy a particular position both in the context of post-communist transition and that of EU enlargement. In terms of post-communist transition, as noted above, the key factors conditioning institutional development related to the historical antecedents, the nature of the actor constellation at the moment of change and the mode of regime expiration. Regarding EU enlargement, ‘the post-communist European countries are unique in the sense that, accompanied by an economic support package, the EU has used the prospect of EU membership as both a carrot and a stick for reforms in these countries’ (Giandomenico, 2008: 4; cf. Vachudová, 2005; Grabbe, 2001, 2003, 2006; Kelley, 2004; Jacoby, 2004; Schimmelfennig and Sedelmeier, 2007). This is even more true with respect to the region of the Western Balkans, since the EU extended the prospect of future membership to these countries as a tool to avoid further instability and wars in the Balkans (Friis and Murphy 2000; for a detailed discussion on the EU’s enlargement policy towards the Western Balkans in general and in Croatia in particular see Chapter 4). It is in some senses impossible therefore to study post-communist change in transitory European

environments (including Croatia) without taking into consideration the arguably strong ‘transformative’ influence the EU poses over these countries.

The ‘transformative power’ of the EU rests largely on what Vachudová (2005) terms its ‘active’ and ‘passive leverage’. In brief, passive leverage refers to the attraction or magnetism of EU membership and active leverage refers to all the efforts and instruments available to the EU in imposing reforms. The literature on ‘enlargement-driven change’ (cf. Dimitrova, 2005a) has underscored particularly the importance of ‘conditionality’ as the EU’s most effective leverage tool for inducing institutional changes in candidate-states (Grabbe, 2001, 2003; Hughes et al. 2004; Jacoby, 2004; Pridham, 2005; Vachudová, 2005; Schimmelfennig and Sedelmeier, 2005a). As a recent article summarises, EU membership conditionality has ‘brought about an alignment of the ten post-communist countries’ systems of governance, economies and legal structures with the West European member states and the EU’s *acquis communautaire*’ (Epstein and Sedelmeier, 2008: 796). By making accession conditional upon an ever increasing and tighter set of rather intrusive membership conditions (first spelled out in the 1993 Copenhagen European Council), while at the same time offering credible and highly desirable rewards, the EU arguably managed to diffuse and ‘impose’ (Goetz, 2005) its institutions ‘outside’ its inner circle of member states. In this respect then, the EU enlargement policy was grounded in an attractive basket of conditional rewards rather than on coercion tools. Thus conditionality followed on a ‘strategy of reinforcement by reward’ (Schimmelfennig and Sedelmeier, 2005b).

At first glance, there appears to be a striking power asymmetry during the process of accession between EU institutions and member-states and the ‘outsiders’ seeking membership. Indeed, the sheer volume and scope of EU conditions (Grabbe, 2001: 1014) combined with the ‘openness’ of post-communist CEECs to EU influence in light of their strong desire to ‘return to Europe’ (Héritier, 2005) and the high speed with which these countries had to adjust to EU provided a highly and unique asymmetrical power context whereby playing credibly the game of ‘rewards and threats’ EU institutions altered the domestic actors’ opportunity structures leading them to prefer reform to stability. The attractiveness of EU rewards (ranging from financial assistance to association to

membership), and hence the intrusiveness of conditionality, was further reinforced by the EU's purposeful attempt to design some of its conditions as remedies to transformation/transition problems encountered by the countries concerned (Dimitrova, 2004b: 9; see, however, Grabbe, 2006: 107 for a different view). In this context, the 'power asymmetry' (Moravcsik and Vachudová, 2003) between the EU and the candidate states has meant that 'political elites in CEE ha[d] limited control over the institutional changes they have undertaken to effect' (Dimitrova, 2004b: 8). Klaus Goetz (2005: 255) summarises the point well:

'The nature of their relationship to the EU has been that of applicants, candidates, negotiating partners, and acceding countries, rather than of full members... Thus, they have, so far, been primarily 'downloaders' of EU law, policies and practices, 'policy-takers', with only limited opportunities for 'uploading' country-specific preferences and priorities as 'policy-makers'.

In this respect then, as in 'member-state Europeanisation' literature, enlargement dynamics are often seen to resemble a 'one-way-street' and a 'top-down' quasi-mechanical process of domestic transformation (cf. Börzel and Risse, 2007; Héritier, 2005). Heather Grabbe (2006: 75-89) set out a typology of five conditionality 'mechanisms' with which the EU succeeded to transform governance patterns in CEE. The 'mechanisms of Europeanisation' referred to are as follows:

- **models**: 'provisions of legislative and institutional templates' corresponding with the legal downloading of the *acquis communautaire* and the harmonization with EU regulations;
- **money**: 'aid and technical assistance' that had 'an important role in reinforcing the transfer of EU models';
- **benchmarking and monitoring**, meaning to rank candidates, benchmark in particular policy areas and provide examples that the applicant seeks to emulate;
- **advice and twinning**, which involved the direct secondment of civil servants from EU member states to work as advisers in domestic institution-building programmes;
- **gate-keeping**: 'accession to negotiations and further stages in the accession process', which was the 'EU's most powerful conditionality tool' and related to 'access to different stages in the accession process, particularly achieving candidate status and starting negotiations'.

While these five Europeanisation routes of intrusion bore potentially a 'colossal transformative power for the EU' (Grabbe, 2006: 201), they alone were not translated into powerful external pressure. Those academics writing on the subject of Eastern enlargement

have demonstrated that the EU's conditionality approach was dependent on several mediating factors - most notably EU-related ones (cf. Grabbe, 2003, 2006; Hughes et al. 2004; Schimmelfennig and Sedelmeier, 2005b). The credibility of EU conditionality has drawn much attention. Credibility has two faces for Schimmelfennig and Sedelmeier (2005b; see also Grabbe, 2006). Ulrich Sedelmeier (2006: 12) notes, 'The candidates have to be certain that they will receive the promised rewards after meeting the EU's demands. Yet they also have to believe that they will only receive the reward if they indeed fully meet the requirements'. Given that candidates are offered *credible* benefits and that the EU is willing to *withhold* the rewards when it detects non-compliance (i.e., the essence of conditionality), the likelihood of rule adoption is hypothesised to decrease under conditions of 'low issue salience' (Schimmelfennig and Sedelmeier, 2007: 93) and/or 'low certitude and precision of EU demands' (Grabbe, 2006: 206). As Grabbe (2006: 206) expounds: 'The EU has its greatest influence where it has a detailed policy to be transferred, it gives consistent advice, its actors speak with one voice, and it sets clear and certain requirements. It has its least impact where a policy area lacks these elements, and tends towards diffuseness and uncertainty'.

Whilst rule adoption will occur *anyway* (if the given rule is set as a condition), the scope of Europeanisation effects would be less far-reaching since the 'vagueness' and 'ambivalence' (Hughes et al. 2004) or 'uncertainty' and 'diffusion' (Grabbe, 2006) of EU influence may leave sufficient manoeuvre space to candidates to 'shape' their domestic reform responses. Thus patterns of 'institutionalisation for reversibility' and 'shallow Europeanisation' may ultimately prevail (Goetz, 2005: 262; Grabbe, 2006). More precisely, diffuseness and uncertainty of EU influence reflect the EU's notorious 'patchy' policy system (Héritier, 1996) and, consequently, EU's certain limitations as an 'authoritative' political actor. Diffuseness comes to denote the 'EU's own lack of institutional templates, because of its limited role in the governance of its current member-states' (Grabbe, 2006: 90). There are very few policy areas indeed where the EU has a strong authoritative presence by means of setting ready-made 'downloadable' policy and institutional solutions to member states. In the context of Eastern enlargement, diffuseness was further strengthened by the evolving (and ever-growing) scope of EU conditionality as well as the complex actor constellations (with their diverse and sometimes contradictory policy role) engaged in the process. As regards 'uncertainty', according to Grabbe (2006:

91-94), in the case of Eastern enlargement, applicants were uncertain about (i) the linkage between fulfilling particular tasks and receiving particular benefits; (ii) the hierarchy of tasks; (iii) the policy agenda that should be undertaken; (iv) the time, timing and tempo of the process; (v) whom, i.e., which EU institution, to satisfy and (vi) standards and thresholds. Therefore, uncertainty emerges as a crucial intervening variable that not only shapes the pace of compliance but also its depth.

As opposed to the contemporary ‘member-state Europeanisation’ literature, in this body of research the role of domestic political variables (be it institutions or actors) appears considerably weaker given that in the ‘exceptional’ context of EU enlargement rationalist mediating variables such as adoption costs and veto-players are largely superseded by the overpowering employment of conditionality (Schimmelfennig and Sedelmeier, 2007: 95). It should, however, be noted that domestic factors are not absolutely ruled out as potential inhibitors of rule adoption. For instance, in the context of *democratic conditionality* (i.e., the phase preceding the opening of accession negotiations where fulfilling the ‘democracy’ Copenhagen criterion provides the impetus for further steps towards membership), it is the precise nature of a target regime (liberal or illiberal) and domestic political constellations that crucially affects the direction of rule transfer (Schimmelfennig, 2005). In other words, even in conditions of credible membership incentives Europeanisation may not be launched when the ‘political costs of compliance are high for the target government, that is, when fulfilling EU conditions threatens the survival of the regime or the government’ (Schimmelfennig, 2008: 918-19; see also Kelley, 2004; Vachudová, 2005). Schimmelfennig and Scholtz (2008: 207) convincingly argue that conditionality is most effective in countries which have partly democratised but not yet reached full consolidation.

Soon after a democratic pro-EU government rises to power and is ‘locked-in’ the European integration path (Vachudová, 2005) domestic inhibitors are likely to be superseded by the accession process. Haughton (2007) writes that conditionality is at its most efficient when the EU is about to decide whether to open accession negotiations or not, because the connection between demand and reward is very clear at that point. Once negotiations are opened, the membership seems secured no matter what, and there is a great risk of resistance or delay in implementation (Haughton, 2007: 243). It is precisely in the context

of *acquis conditionality* where the relative importance of domestic factors is overshadowed by the pervasiveness of the requirement to adopt inviolably the whole body of EU law as it evolves (Schimmelfennig and Sedelmeier, 2005c). Domestic inhibitors such as compliance costs and veto players do not play any longer a decisive role in influencing the *likelihood* of rule adoption since, according to the literature, they can only account for the timing, that is, speed of rule adoption, and nature of adaptation (Schimmelfennig and Sedelmeier, 2005c; Sedelmeier, 2006).

Regarding the patterns of adaptation, Schimmelfennig and Sedelmeier (2005b) distinguish between *formal change* (the legal transposition of EU rules) and *behavioural change* (implementation, application and enforcement) (see also Hughes et al. 2004; Jacoby, 1999). Jacoby (2004: 8-12) underscored four different outcomes of CEEC elites attempts to emulate EU rules, ranging from ‘open struggle’, to ‘scaffolding’, to ‘continuous learning’ and to ‘homesteading’ by new domestic groups. Finally, for Grabbe (2006: 206-207) the extent and direction of Europeanisation depended also on the degree of ‘domestic political will’ and ‘institutional capacity’ to implement a given EU policy in CEE. She notes thus that (ibid: 206): ‘Europeanization effects go furthest where would-be members have strong political will to implement a policy owing to domestic consensus about the goal of implementation, and where they have the institutional capacity required to achieve that goal’.

3.5. Key analytical challenges: The limits of the top-down modelling of Europeanisation and ‘bottom-up’ transition frameworks

Notwithstanding their important advantages, both literatures suffer from certain defects. First, as already noted, these ‘top-down’ models run the risk of rendering Europeanisation ‘a cause in search for an effect’ (Goetz, 2001: 211). Given that these models are heavily structured around ‘fixed’ *sui generis* explanations in which specific factors located at the domestic level ‘respond’ *only* to EU-side variables, there is a strong bias that domestic change (if present) is the sole outcome of this interaction/intersection.

A second drawback is that the ‘snapshot’ conditionality-centred models tend to focus on a single process in isolation from other forces, where in a highly complex and increasingly

integrated world ‘Europeanisation’ is but one source of institutional change (see Schneider, 2001 for a notable exception). In fact, analysts run the risk of highlighting claims about short-term causal effects when the long-term causal processes may (also) run exactly counter and/or parallel to them (cf. Swank, 2001; Carpenter, 2001). In other words, they may confuse the ‘catalyst’ with the ‘trigger’ of institutional reform. Thus, these models seem ill-equipped to account for ‘equifinality’ and sophisticated cases of causation (Radaelli, 2004; Radaelli and Pasquier, 2007: 37).

Third, in conditionality-centred models scholars often tend to equate EU stimuli with clear, ‘hard’ and ‘downloadable’ templates. In a sense, they assume that the EU level is characterised by high levels of ‘order’ and coherence (cf. Radaelli and Franchino, 2004: 947). Quite the opposite, EU policy stock resembles more a ‘patchwork’ (Héritier, 1996) than a coherent list of transferable policy remedies. Indeed, even the very notion and nature of the ‘*acquis conditionality*’ is far from consistent and clear. Instead, recent research has shown the ‘*acquis*’ is characterised by striking ambiguities, vagueness and structural flaws - what Grabbe (2006) calls ‘diffuseness’ – unfavourable conditions that may generate uncertainty and thus a weakened impact of conditionality (cf. Hughes et al., 2004; Grabbe, 2006). Thus, top-down concepts like conditionality lead, more often than not, into fallacies by mistaking and thus subsuming under the term ‘conditions’ general (and ambiguous) EU guidelines or recommendations (cf. Brusis, 2005). All in all, one should be very careful when ascribing causal weight to conditionality. In fact, rather than assuming that conditionality provokes change just because a rule has been set as a condition by the EU, we need to make this a target for investigation and contrast it with other potential causal factors.

Turning to the methodological defects of transition models, much alike ‘top-down’ Europeanisation models with their impressive list of potential sources of change (most notably the ‘*acquis*’), early writing in the post-communist reform overlooked elements of continuity and inertia emphasising institutional *tabula rasa*. In this respect, ‘bottom-up’ frameworks might ‘lose sight of continuities and to overemphasize change’ (Dimitrov et al. 2006: 18). In contrast to ‘candidate Europeanisation’ models, however, later literature on the post-communist institutional transformation has focused on domestic factors and, in so doing, has often underestimated ‘enlargement’s significance and impact on domestic

political processes’ (Dimitrova, 2004b: 5; see Brusis, 2004; Hughes et al. 2004; Grabbe, 2006 for notable exceptions).

Notwithstanding the disadvantages noted above, in both bodies the unit of analysis remains the same (i.e., domestic institutional context), yet, what changes is the angle of interpreting patterns of national ‘institutionalisation’. Seemingly, in both literatures the concept of ‘institutionalisation’ denotes the creation, structuration and routinisation of new structures (cf. Olsen, 2000: 4-5), be it organisations or policies. Therefore, in order to capture in a more adequate way the potentially complex interaction and entanglement of domestic and foreign reform impulses at a given time and space one needs a dynamic ‘bottom-up-down’ view of the phenomenon. An increasing number of scholars are also moving in this direction (Hughes et al. 2004; Brusis, 2004; Grabbe, 2006; Elbasani, 2009; Featherstone and Papadimitriou, 2008). This study falls within this broadly institutionalist tradition and thus constitutes a first systematic step in linking ‘candidate Europeanisation’ and ‘post-communist transition’ through a coherent ‘bottom-up-down’ analytical design (see Elbasani, 2009 for a similar attempt). In so doing, it largely responds to Dimitrova’s call (2004b: 5) for bringing ‘the research agendas of these literatures closer together by addressing both the post-communist transformations and enlargement related changes’ in a common theoretically-driven framework.

3.6. Putting it all together: A ‘bottom-up-down’ analytical design

If Europeanisation research provides for a European ‘route’ to the transformation process of domestic politics, the post-communist transition literature offers a ‘bottom-up’ way to the same question of institutional development. In this respect, both literatures run largely in parallel, meaning that they capture partial, though important, elements of a circular and dynamic process. Rather than rejecting *ex ante* the key findings and assumptions prominent in the conditionality-centred (rationalist) theorisation of ‘candidate Europeanisation’ literature, this study builds on them by situating the analysis in a time-sensitive and history-oriented research design (HI) in an attempt to capture the much

neglected ‘bottom-up’ dimension of ‘institutional development’ (cf. Thelen, 1999, 2003, 2004; Pierson, 2004).

Explanatory frameworks sensitive to domestic factors and time are indispensable for a careful evaluation of how EU rules are perceived and institutionalised in the domestic context (see Radaelli, 2003; Haverland, 2005; Radaelli and Pasquier, 2007; Vink and Graziano, 2007; Zubek, 2008; Stolfi, 2008; Goetz, 2009; Bulmer, 2009; Elbasani, 2009). Yet, as opposed to the ‘top-down’ Europeanisation frameworks (Caporaso, 2007; Schimmelfennig and Sedelmeier, 2005b) which start at the EU level and then track down the implications of EU exigencies on domestic polities, politics, and policies (Börzel and Risse, 2003) or the pure ‘bottom-up’ frameworks that begin and finish at the domestic level without taking into consideration how foreign stimuli affect domestic processes, this study endorses a ‘bottom-up-down’ view to the complex phenomenon of domestic institutional development (cf. Vink and Graziano, 2007; Radaelli and Pasquier, 2007).

In particular, a ‘bottom-up-down’ view traces patterns of adaptation, by first inquiring into the domestic institutional priors and systems of interaction, then ‘climbing up’ to the European level, that is, establishing the European demands in each particular area, and then descending downwards to gauge the outcomes of ‘Europeanisation’ in light of each country’s domestic idiosyncracies (Radaelli and Pasquier, 2007; Haverland, 2005, 2007; Vink and Graziano, 2007). Adherents of the approach argue further, that only by bringing domestic- and EU-related variables in the same explanatory framework ‘can one evaluate the relative importance of each’ (Stolfi, 2008: 551). Thus, the main aim is to ‘unpack’ the *process* of institutional development in all of its temporal stages (pre-communist, communist, post-communist) and check *if, when, and how* the EU provides a change in any of the main components of the system of interaction *over time* (Radaelli, 2003).

The links between the Piersonian notions of causality and time are apparent. In this respect, ‘bottom-up-down’ analytical designs aim to bring more nuanced assessments on the shaping role of domestic factors in the process of EU rule politicisation, institutionalisation or circumscription in the domestic arena. First, by ‘situating Europe in the logic of domestic political action’ (Radaelli and Franchino, 2004: 951), the framework focuses on whether the outcome in question has been brought about clearly as a result of EU influence or other endogenous and/or exogenous sources of change. Thus, ‘Europeanisation’ is

treated as one of the possible intervening variables rather than a strong independent factor of change in itself. Second, designs that bring forward the role of domestic political variables are focused in the ‘politicisation’ aspect of the process of institutional development, that is, in the processes of interplay (Goetz, 2002) or ‘mutual evolution’ (Olsen, 2000) of the domestic and EU structures. The implication is that bottom-up-down designs with their inherent narrow scope of analysis move from macro-level grand assessments of regime change to meso- and/or micro-level analyses of institutional development. In other words, they climb down the ‘ladder of abstraction’. In so doing, they are better suited to detecting elements of divergence in what would have otherwise looked as convergence in the macro-level and/or as a rapid change. Thus, such designs are more apt to unscramble the modes of domestic emulation resulting from EU pressure as well as detect cases of ‘selective’ (Jacoby, 2004) or ‘shallow Europeanisation’ (Goetz, 2000: 1032).

Third, ‘bottom-up-down’ frameworks pay increasing attention to the implementation stage of reform (Sverdrup, 2007: 197). Much like mainstream ‘Europeanisation’ studies, the emphasis is on identifying the domestic factors (be it institutions or actors) that refract or mitigate the impact of EU influence. Studies of path-dependence suggest that the domestic institutional context channels reform impulses and tends to stick to established pathways. In this respect, the effectiveness of EU pressures to incite paradigmatic change is hypothesised to ‘suffer’ at the implementation phase in light of the constraints that governments face at the domestic level. The ‘hollowing out’ of what has been negotiated between the target government and the international community (including the EU) during the implementation stage has been increasingly linked to the notion of effectiveness of external rule transfer in the post-communist context (see Hughes et al. 2004; Jacoby, 2004; Goetz, 2005). For instance, Grabbe (2006: 63) argues:

‘The issue is more what happens after policies were transferred from one body to the other. Large-scale transfer of EU rules into national law in CEE certainly occurred, but what happened when the policies were implemented? [...] the model has to be expanded in the implementation phase, moving beyond its current focus on the emergence of transfer networks to encompass the phase between process and outcome’.

Overall, Arolda Elbasani (2009: 9) provides a telling summary of the virtues of this approach and is worth quoting at length,

‘By tracing the process and dynamics of change in all its stages, the bottom up approach tends to go beyond a simple ‘external incentive model’ predicting emulation once the EU rewards alter domestic actors’ political opportunities in favour of reform. Instead, it aims to embody elite choices more readily in their domestic context and to foresee the tendency of institutional transfers to *stick* to established pathways, although the EU conditionality can be seen as an opening or critical juncture that facilitates the transposition of new rules. At the same time it can show *how* and to *what extent* the new rules can be played out by the purposeful domestic agency operating under *constraints of structural legacies and behavioural patterns*, which finally *determine* the ‘*shape*’ of EU transfers into the domestic arena’ (author’s emphasis).

To conclude, ‘bottom-up-down’ Europeanisation *contextualises* European integration within the domestic trajectory of institutional evolution and, in so doing, checks whether the former has by any account influenced the (ongoing) course of state- and society-building development (i.e., the formation, consolidation and equilibrium of a political system; see Radaelli and Pasquier, 2007: 42). The next section works out the details of the explanatory framework adopted in this study.

3.7. Modelling explanation: Contextualising variables

As noted, EU conditionality occupies a core position by constituting the independent variable in the explanatory models put forward by most scholars interested in the domestic impact of European integration in post-communist space. Yet, as cautioned by Johan Olsen (1996: 271) domestic transformation may occur on the basis of a ‘multitude of co-evolving, parallel, and not necessarily tightly-coupled processes’. Therefore, the study of ‘Europeanisation’ does not accommodate easily ‘the language of dependent and independent variables and the logic of regression analysis’ (ibid). Identifying the dependent variable - here the domestic institutional development in light of the European integration incentives - and intervening variables - the domestic and EU contexts - is relatively a straightforward task. However, indicating *ex ante* the main independent variable in a social context characterised by multiple endogenous and exogenous pressures for development is more complicated. More than one independent variable converging in a given point of time may contribute to the same outcome. Put differently, ‘Europeanisation’ may either be a sufficient (i.e., the only independent variable) or a necessary (one important among many independent conditions) factor in a particular chain of institutional development. In situations where ‘equifinality’ is present alternative independent variables to EU incentives contribute to the same outcome. Therefore, accounting for ‘multi-

causality' poses significant strains in a positivist and variable-centred explanatory framework. Disentangling the relative causal weight of conditionality requires thus careful process-tracing and time-oriented analysis (see Introduction).

In this context, drawing on the literatures of 'Europeanisation' and 'Transition', an indicative set of variables located at both sides (EU-domestic) is offered below as a useful guide in making sense of the processes of Europeanisation and institutional development in the case of Croatia. Insights from both RCI and HI are used here given that this study departs from the common assumption that the domestic institutional context processes external (and internal) reform incentives shaping accordingly the domestic responses to them.

3.7.1. *EU-side variables*

Credible Conditionality: Conditionality refers to the multiple rules set by the EU as conditions that candidate states have to fulfil in order to receive rewards from the EU. As noted, credibility has a dual meaning as it refers both to the EU's threat of withholding the rewards in case of non-compliance and promise to deliver the reward in case of rule adoption (Schimmelfennig and Sedelmeier, 2005b: 13). Apart from the 'democracy' and 'acquis conditionality' (Schimmelfennig and Sedelmeier, 2005c, 2007) phases, Hughes et al. (2004: 26) suggested a further distinction in the nature of conditionality between (i) *formal* conditionality 'which embodies the publicly stated preconditions as set out in the broad principles of the 'Copenhagen criteria' and the legal framework of the *acquis*' and (ii) *informal* conditionality 'which includes the operational pressures and recommendations applied by actors within the European Commission to achieve particular outcomes during their interactions with (candidate states) in the course of enlargement'. Both typologies offer useful insights to the complex nature of conditionality, and will therefore guide this study.

Determinacy and salience of conditions: Regarding determinacy, the clearer the behavioural implications of a rule and the more 'legalised' and binding its status, the higher its determinacy (Schimmelfennig and Sedelmeier, 2005b: 12). As for salience, the likelihood of rule adoption increases when the EU pays increased attention to a given area subject to conditionality (Grabbe, 2006).

3.7.2. Domestic-side variables

Institutional Legacies: In general, the notion of legacies denotes the persistence and shaping power of material (e.g., formal institutions) and non-material (e.g., culture, habits) priors inherited from past political and social institutional contexts. In the case of post-communist Europe, the concept reflects primarily (though not exclusively) communist (material) institutional legacies. In the case of Croatia, however, the scope of the notion will extend further in the immediate post-communist period (1989-1999) in order to capture the particular mode of regime change, the violent dissolution of Yugoslavia, and the authoritarian ten-year rule of nationalists. Two particular structural features are assumed to play a decisive role in shaping EU influence in terms of post-communist heritage: the war legacies and the authoritarian/nationalist cult of government of the ruling Croatian Democratic Union (HDZ) under President Tuđman between 1990 and 1999. In this respect, the existence of strongly embedded institutional arrangements [(pre-) communist and post-communist] in an issue-area subject to EU conditionality strongly influences actors' reform strategies by shaping the menu of (their) institutional choices (Pierson, 2004). Accordingly, 'any revisions that do occur will often be powerfully constrained and channelled by previous institutional choices and the processes those choices unleash' (Pierson, 2004: 152). When political institutions 'form a complicated ecology of inter-connected rules' (March and Olsen, 1989: 170) massive increasing returns (North, 1990: 95), that is, positive reinforcing feedbacks, will make path dependence and/or 'bounded transformation' a common feature of institutional evolution. Thus it is assumed that: given particular starting points, particular 'choices' or forms of development may be 'bounded' within established paths (cf. Weir, 1992; Thelen, 2004; Pierson, 2004).

Actors' strategies: The focus on institutional legacies helps to clarify the role of structural constraints on purposeful agency. At the same time, the role of political and policy leadership needs to be explored and the relevant processes identified. Grabbe (2006: 206) argues that the political will to produce change in light of EU conditions is a key factor in shaping the actual scope of 'Europeanisation' effects. EU conditionality both constrains and empowers domestic actors (Schimmelfennig and Sedelmeier, 2005b). The ways in which actors respond to EU impulses must be interpreted thus as sensitive to strategies, tactics, and bargaining (cf. Featherstone and Papadimitriou, 2008). EU stimuli may work

either directly on the target government (which then weighs its ‘moves’ in a cost-benefit fashion) or indirectly via the differential empowerment of domestic actors who then use European developments ‘from below’ to shape domestic responses (Schimmelfennig and Sedelmeier, 2005b: 11-12; Börzel and Risse, 2003, 2007). Accordingly, the weaker the political will to reform, the slower the process of institutional development is.

Reform Capacity: In the mainstream ‘Europeanisation’ scholarship the notions of ‘veto-points’ and ‘integrated political leadership’ converge in the umbrella concept of ‘reform capacity’ (Héritier, 2001a: 10). According to Héritier and Knill (2001: 258), a country’s reform capacity is ‘determined by the number of formal and factual veto positions that need to be overcome in order to realise a decision, and by the degree to which that country enjoys politically integrated leadership’. Integrated political leadership can be provided by ‘formal majoritarian hierarchical government or by a long-standing and successful practice of consensual decision making that incorporates or reconciles diverging interests’ (ibid). Thus, ‘the more fragmented the political leadership and the larger the number of veto points is, the slower the speed of adaptation becomes’. Similarly, the more densely populated an institution and/or policy-area is by veto-players incurring net adoption costs and/or veto positions requiring legal modification, the more difficult and chronic EU rule adoption becomes. However, given the pervasive power of EU conditionality and the government’s commitment to membership, ‘veto-players and/or points are assumed to affect only the speed and timing of compliance, but not the likelihood of rule adoption per se’ (Schimmelfennig and Sedelmeier, 2005c, 2007).

Administrative capacity: According to Börzel (2002, 2009), Noutcheva and Bechev (2008), and Grabbe (2006) the capacity of a state to respond to EU pressures depends also on its administrative capacity and resources. Among others, administrative capacity refers to staff power, financial resources, expertise, coalition building skills and concentration of competencies (Bursens and Deforche, 2008: 6). All of these can influence a state’s timely response to EU impulses. The implication is that, the more administrative capacity, the higher the chance of fast and effective rule adoption.

3.8. Conclusion

This chapter reviewed a broad array of both ‘top-down’ Europeanisation and ‘bottom-up’ post-communist transition explanatory frameworks in order to locate the crucial variables to explaining Croatia’s domestic institutional evolution under foreign (most notably EU) direction. Most candidate-Europeanisation approaches point towards patterns of domestic transformation in light of EU conditionality. In contrast, transition theories draw attention to the mediating power of historical legacies in shaping post-communist transformation trajectories in CEE. Put otherwise, while Europeanisation provides for a ‘European route’ to domestic institutional development, transition theories define domestic structural and actor constellations with an opposite starting point to that of ‘Europeanisation’. As such, the two perspectives can be viewed as two sides of the same coin: each concerned with what is not covered by the other [a similar pluralist perspective has been applied by Featherstone and Papadimitriou (2008) in the case of Greece’s ‘Limited Europeanization’]. It was argued that, although both literatures have provided important heuristics, a more rounded ‘bottom-up-down’ explanation sensitive to the process of EU rule ‘politicisation’, ‘resilience’ and ‘institutionalisation’ is needed in order to compensate for the limitations of both literatures. To that end, drawing from RCI and HI accounts alike, this chapter introduced two additional to ‘Europeanisation’ concepts, that is, the notions of ‘embedded rationality’ and ‘institutional development’, in order to offer a ‘thicker’, time-sensitive and ‘contextual’ theoretical explanation (cf. Pierson, 2004: 167-72) to the multi-faceted process of institutional development under foreign (primarily EU) influences.

The next chapter discusses Croatia’s road to EU membership. Both the European and the domestic context are assumed to influence the sequencing and nature of institutional development in Croatia.

4

Croatia's Sluggish Road to EU Membership

4.1. Introduction

This chapter focuses on Croatia's long and 'sluggish' politics of 'Europeanisation'. In particular, it explores the historical relationship between Croatia and the EU since the early 1970s, from the Trade and Cooperation Agreement and Regional Approach, through to Croatia's Stabilisation and Association Agreement, application for membership and accession negotiations. It provides an understanding of the domestic and external dynamics that contributed to the country seeking EU membership and the various hurdles to such a goal. It also describes the positions of various EU states and institutions on the country's accession process.

4.2. The Communist Era

Prior to the collapse of Yugoslavia, socialist Croatia was the second, most prosperous and industrialised republic in the Federation, trailing only Slovenia, with a per capita output perhaps one third above the Yugoslav average (cf. Goldstein, 1999: 173-76). Owing to Yugoslavia's unique economic system in the communist world based on 'workers' self-management', decision-making in Croatia had been devolved to enterprise managers and workers who operated in a relatively free market environment (Bartlett, 2003: 31). At the same time, compared to the other communist countries of CEE, the Croatian economy was open to trade and the visa-free movement of labour with both the West and East (Goldstein, 1999: 174). And compared to the other republics that comprised the Yugoslav federation, Croatia was, alongside Slovenia, far more integrated into European networks due to its Hapsburg legacy, geopolitical proximity, its strong export production and tourist industries (Woodward, 1996: 20).

For all these reasons and unlike the other CEECs, Croatia commenced its response to Europeanisation well ahead of independence in 1991. In particular, Croatia benefited from a non-preferential Agreement with the European Economic Community (EEC) signed in Brussels in 1970. This agreement covered a period of three years and expired on 30 April 1973. It was succeeded by a five-year Agreement signed in the same year, which was in force until 30 September 1978. Under the terms of this Agreement the two parties accorded each other most-favoured-nation treatment. The Agreement contained an 'evolutive' clause. Yugoslavia and the Community were to develop economic cooperation as a complementary element to trade in areas of mutual interest in light of developments in the Community's economic policies. Negotiations between the Community and Yugoslavia were resumed in Brussels on 2 and 3 July 1979, with a view to the conclusion of a Trade and Cooperation Agreement to replace the 1973 five-year Agreement. The Agreement was finally signed in 1980 and covered a wide range of fields including agriculture, trade, tourism, energy and scientific and technological research (European Commission, 1979).

4.3. Nationalists in office and the quest for a distinct identity, 1990-1995

Franjo Tuđman (Croatia's first President and so-called 'father of the nation') and his party, the Croatian Democratic Union (HDZ), envisioned an independent Croatian state as a

member of the European Community of peoples: ‘Being a member of the EU means going back to our roots’, PM Jadranka Kosor (HDZ) said at a speech in October 2009 echoing Tuđman’s own words. Following the founding election of April-May 1990, the incoming nationalist elites embraced the Western project of centralised and homogenous nation-state building and the standard of modernity in which the project of nationhood is embedded (Zakošek, 1997, 2002). In Croatia, the relationship with ‘Europe’ has historically been construed in strongly ideational terms. In fact, ‘Europe’ represented a way to escape the primitive ‘Balkans’, meaning Serbia. William Bartlett (2003: 64) ably summarises the point:

‘Croatia’s historical legacy lies in its experience as a part of the Austro-Hungarian Empire, while Serbia’s legacy lies in subjugation and liberation from the Ottomans. In this long historical perspective, Croatia’s unification with Serbia, first in the kingdom of Serbs, Croats and Slovenes, and subsequently in the kingdom of Yugoslavia and then after the Second World War in the Socialist Federal Republic of Yugoslavia, was seen as an aberration, at best an unhappy alliance, and at worst as a subjugation, never fully accepted by the population. The decision-making elite had always been divided over the choice of union with Serbia, and from time to time the prospect of a more independent position for Croatia had gained support among its members, for example during the Croatian Spring events of 1971’.

Under the nationalists, Croatia had a unique historical opportunity to ‘return’ to the civilised European family of which the country was once a member. It did not matter, however, that Croatia was in many respects a second-class province of the Austro-Hungarian Empire for hundreds of years (cf. Goldstein, 1999). Croats appropriated the economic accomplishments and culture of *Mittel Europa* as their own, without ‘consideration of *how* they participated – as equal actors or otherwise’ (Bakić-Hayden, 1995: 924). As Bartlett (2003: 64; emphasis added) puts it, ‘Croatia has been keen to project and emphasize her identity as a central European country, sometimes as a Mediterranean country, but definitely *not* a part of the ‘Balkans’. In other words, Croats needed a separate identity in order to survive as a distinct nation and thus justly pursue their liberation struggle against the Serbs. Lindstrom and Razsa (1999: 8, 3) provide an excellent summary:

‘Leading up to and following the outbreak of war in July 1991, Croatia needed to construct an identity that would be maximally differentiated from its Yugoslav identity and other constituent nationalities that made up

the former Yugoslavia, most significantly Serbia. But because Serbia was so intimately connected to Croatia – over ten percent of Croatia’s population is ethnically Serb, the Serbian and Croatian languages are linguistically very similar, and Croats and Serbs are both considered “ethnically” Slav – and because the Serbs posed a genuine military threat to Croatia’s independence and in some cases its very existence, this process of differentiation was all the more acute. Balkanist discourse was the perfect mechanism for this differentiation’.

Thus,

‘By defining themselves as more progressive, prosperous, hard-working, tolerant, democratic or, in a word, *European*, in contrast to their primitive, lazy, intolerant, i.e. *Balkan*, neighbors to the southeast, Croatia could justify its quest for independence as a necessary emancipation from its “Balkan burden” and its return to its rightful place in Europe’.

Thus, in order to manifest Croatia’s serious prospects for ‘re-joining Europe’, Tuđman created the Office for adjustment to European Integration (OEI) in 1990, while Croatia was still a Yugoslav republic. Diplomatic relations between Croatia and the EC were established on 15 January 1992, following the former’s recognition by the latter. As noted above, for many years prior to independence, Croatia had benefited from preferential trade arrangements under the Trade and Cooperation Agreement signed in 1980 between the EEC and the former Yugoslavia. Eventually, the dissolution of the former federal state meant the natural termination of contractual relations between the two parties by a decision of the EC Council of Ministers of November 25, 1991. The EU continued, however, to apply the commercial aspects of the Agreement with Croatia (Bartlett, 2003: 104). Following independence, the EU decided to commence bilateral relations with both Croatia and Slovenia. But due to Croatia’s ‘bloody’ engagement in the wars of ‘Yugoslav succession’, these were made conditional on Croatian observance of a ‘code of democratic conduct’ and respect of minority rights (European Commission, 2000: 4).

In 1993, Central European countries – the Czech Republic, Hungary, Poland and Slovakia, later joined by Slovenia and Romania – offered Croatia membership in the Central European Free Trade Area (CEFTA), but were rebuffed. At that time Tuđman believed that Croatia could enter the EU directly, not in partnership with former communist countries (Goldstein, 1999: 261). But, as Croatia became deeply embroiled in the Bosnian war

between 1992 and 1995, EU-Croatian relations started to cool as evidenced by the Union's sanctions on Croatia. In March 1995, the EU decided to extend its main assistance programme for the post-communist states of Eastern Europe - PHARE - to Croatia and to open negotiations in a Trade and Cooperation Agreement and a Transport Agreement. Croatia was temporarily included in the PHARE programme between 12 June and 4 August 1995. But, both the assistance and the negotiations were suspended on 7 August 1995 due to the infamous military operation 'Oluja' (Storm) in former UN sectors in the Krajina region⁹, which 'casted a shadow on Croatia's democratic record and respect for the rule of law' (European Commission, 2000: 5). Although Croatia was outside the PHARE programme, it nevertheless benefited from substantial European aid in various other ways. Suffice it to say that, apart from the autonomous trade preferences, the EU provided humanitarian assistance to war-torn Croatia which amounted to some €350 million between 1991 and 1997, while a further €1,166 million were provided on a bilateral basis by individual EU member states (Bartlett, 2003: 73).

4.3.1. Responding to Bosnian Crisis: The EU Royaumont and Regional Approach initiatives, 1995-1998

Without a doubt, the Bosnian conflict had a disastrous effect on the credibility of the EU. The Union was criticised by many as being powerless to halt a war taking place virtually in 'the heart of Europe' (cf. Yannis, 2002). Many observers agree that this episode was a shock for the EU which now recognised that it had to increase its involvement in the Balkans (Türkes and Gökgöz, 2006: 674; Yannis, 2002). At the same time, the Bosnian

⁹ In March and August 1995 respectively, Croatia's army launched a series of offensives against the Croatian Serb militias that were still holding close to a third of the national territory (Pusić, 1998: 113). Through the infamous Operations *Blijesak* (Flash) and *Oluja* (Storm), the Croatian army quickly regained Western Slavonia and the Krajina, while Eastern Slavonia would be peacefully reincorporated in July 1997 (Goldstein, 1999: 252-54). Significantly, Croatia's forceful recapture of the Krajina region resulted in the exodus of almost the entire Serbian population inhabiting the area (Cohen, 1997: 104). In all, some 180,000 Krajina Serbs –descendants of families that had first settled in Croatia over four centuries earlier - evacuated the area, leaving few behind (Bartlett, 2003: 70). Moreover, several hundred Serb civilians were killed and Serb property was looted and burnt (Goldstein, 1999: 254). For months, Croatian authorities did little or nothing to stop these outrages (Pusić, 1998:113). Croatia was again seriously criticised by the international community. These developments notwithstanding, it seemed that Tuđman had finally resolved the 'Serbian question' that for centuries had troubled Croatia as the forcible expulsion of Serbs from the 'Krajina' had made the country now 'more ethnically homogeneous by reducing the ethnic-Serb share of Croatia's population from 12 per cent to less than 5 per cent' (ibid: 113).

crisis offered proof that conflicts in the ‘neighborhood’ could have a spill-over effect, showing a risk of instability being imported into the EU (Papadimitriou, 2001; Fakiolas and Tzifakis, 2008). In trying to contain conflict as part of sustaining stability, the EU developed a series of regional initiatives.

The *Royaumont Process* launched in the immediate aftermath of the Dayton Peace Accord (in December 1995) was the first EU initiative aimed at stabilising the region (Fakiolas and Tzifakis, 2008: 380). It represented an example of a civilian ‘preventive diplomacy’ that focused on promoting regional projects to establish ‘good neighbourly relations’ (Türkes and Gökgöz, 2006: 675). This process was soon superseded by the parallel *Regional Approach* initiative agreed upon by the EU General Affairs Council on 26-27 February 1996 aimed at strengthening ‘stability, good-neighbourliness and economic recovery in southeast Europe’ (Papadimitriou, 2001: 74). As Fakiolas and Tzifakis (2008: 380) rightly conclude, within the Regional Approach framework the ‘stabilisation’ and ‘regionalism’ components appeared to constitute not simply the motors behind but also ‘the requisite conditions for the development of EU-Western Balkans relationship’. In other words, not only did the EU show its first reluctant signs of a desire to create a post-Dayton security environment in its southeast European borderland. It also manifested the so-called ‘Western Balkans’ (all former Yugoslav republics but Slovenia plus Albania) as a ‘separate but unified regional grouping sharing an array of severe peace-consolidation and state-building capacity vulnerabilities’ (ibid: 380).

Significantly, the 1997 EU General Affairs Council fitted the Regional Approach with political and economic conditionality for the development of bilateral relations with the five ‘Western Balkan’ countries including Croatia. In fact, the Council complemented the ‘Copenhagen Criteria’ (i.e., respect for democratic principles, human rights, and the rule of law; protection of minorities; market economy reforms) introduced by the Copenhagen European Council in June 1993 with an additional condition: ‘regional cooperation’ (Türkes and Gökgöz, 2006: 675). In brief, the Western Balkan countries were required to build common structures (for example, a free trade area) and sustain a multilateral political dialogue. Perhaps more controversially, cooperation with the ICTY, founded in The Hague in 1995, was established as a key condition by the Dayton grouping (Croatia, Bosnia, and Serbia-Montenegro) for closer relations with both the EU and NATO (Bartlett, 2003: 78).

In fact, the ICTY claimed jurisdiction over the Croatian military, particularly in relation to the police operations 'Flash' and 'Storm' in Krajina (Jovic, 2006: 2). Thus, in view of the 1993 'Copenhagen Criteria', which have been the 'linchpin of the [EU] enlargement governance mode' (Dimitrova, 2004b: 9) since their introduction, the 1997 conditionality amounted to a 'draconian' set of demands on the part of the EU (Anastasakis and Bechev, 2003; see also Phinnemore, 2006).

For Tuđman and his clique, the Regional Approach scheme along with the concepts of the 'Western Balkans' and 'regional cooperation' were unacceptable because they were seen and then interpreted at the domestic level as concealing a hidden agenda: the destruction of Croatia's independent statehood and subsequently the reconstitution of a new Yugoslavia (ibid: 89). In reaction to what he interpreted as a threat to Croatia's national identity and sovereignty, he initiated an amendment to the Croatian constitution in 1997, which included a new article (141), stating:

'It is prohibited to initiate any process of association of the Republic of Croatia with other states, if such an association would or could lead to restoration of Yugoslav state community or any new Balkan state union in any form' (cited in Jovic, 2006: 89).

By the mid-nineties Tuđman had turned openly hostile towards the EU, criticising its failure to halt Serbia's aggression on Croatia and for allegedly never really supporting Croatian independence (Jovic, 2009: 21-22). Furthermore, Tuđman considered himself as the creator of independent Croatia, and felt secure enough to reject what he saw were the unfair conditions that the EU defined through the 1997 Regional Approach (Jovic, 2006: 85). During the years when other CEE countries were negotiating conditions for accession to the EU, Tuđman accused Europe of purposely pushing Croatia 'back to the Balkans' from which it had just escaped (Fisher, 2006). Moreover, the existence of the ICTY, which indicted several members of Tuđman's military elite, was interpreted by Tuđmanists as constituting a direct challenge to Croatian sovereignty.

To be more precise, for the illiberal and nationalistic regime of Franjo Tuđman, extraditing Croatian generals who helped restore the country's territorial integrity to The Hague as well as helping to re-integrate the expelled Serbs as envisaged by the Dayton and Erdut agreements translated into prohibitive compliance costs given that core elements and

constitutive myths of the country's contemporary national identity – such as the 'Homeland War' - were at stake (Doleneć, 2008). Thus, opting for isolation was the only way to avoid accommodating Croatian standards of government to European ones (Goldstein, 1999: 262). According to Tuđmanists, Croatia would be able to survive on its own in the future.

This was to signal a retrenchment in the Croatian-EU relations. The HDZ under the right wing faction of Ivić Pašalić was largely an authoritarian and oppressive regime. Consequently, access to EU PHARE assistance and the opening of negotiations on contractual relations remained suspended because of the EU's continued dissatisfaction with Croatia over the elements of 1997 conditionality such as refugee return, respect for democracy and the rule of law, as well as full cooperation with the ICTY (European Commission, 2000: 5). Between 1996 and 1999, the EU provided Croatia with limited assistance oriented solely towards the return of refugees and displaced persons. In fact, Croatia was placed under undeclared (silent) sanctions (Papadimitriou, 2001: 75-76). Overall, the post-1996 period was marked by 'negative conditionality' in the form of limited contractual relations and exclusion from an Association Agreement (Anastasakis and Bechev, 2003: 7).

But, Tuđman's Croatia had a mixed and ambivalent attitude towards the EU. On the one hand, the notion of the 'Western Balkans' was unacceptable to the Croatian government, as it linked Croatia to its former Yugoslav neighbours and Albania, instead of the CEECs, which had begun accession talks with the EU (and NATO) (Jovic, 2006: 89). On the other hand, as Bartlett (2003: 74) rightly contends, the regime was 'keen to enjoy preferential trade relations with its largest export market', the EU. This was all the more true since in 1998/9 Croatian economy contracted seriously instead of growing (Bartlett, 2003: 109-18; see next chapter). But because of Croatia's lousy compliance performance with regard to 1997 conditionality, the EU was unwilling to negotiate an Association Agreement with Tuđman's HDZ regime. Moreover, Croatia had also not gained admittance to the CEFTA, which in turn meant that it was also excluded from the duty-free zone covering its immediate neighbours: Hungary and Romania (ibid: 104). Combined with the fact that the Association Agreements signed with the other CEECs and the CEFTA regime gave these states preferential access to EU markets, Croatian goods became relatively uncompetitive

in EU markets. Thus Croatian exporters had ‘an uphill struggle in gaining access not to just to EU markets, but also to the natural export markets to the east’ (ibid). For all these reasons (ideational and material), the HDZ government established new structures for managing the country’s (then still elusive) European integration affairs.

On 2 April 1998, a special independent body was established – the Government Office for European Integration (GOEI), led by a Deputy Prime Minister who was at the same time named Minister of European Integration. In September 1999, the Ministry produced an *Action Plan for European Integration* (Croatian Government, 1999). While the document acknowledged the conditionality imposed by the EU in 1997, it went on, however, to criticise the Union for placing Croatia alongside the other Balkan states which were grouped together within the Regional Approach framework by commenting that: ‘The Republic of Croatia interprets the term ‘Western Balkans’ as an exclusively technical term. Croatia does not accept that it carries any potential connotations which would place the Republic of Croatia within the Balkan framework’ (ibid: 44).

4.3.2. *Responding to the Kosovo crisis: The Stabilisation and Association process, 1999*

The 1999 Kosovo crisis came to the fore as clear proof that the cycles of conflict in the region of Western Balkans were not yet over. It also showed that the EU’s security, as well as credibility as a foreign policy actor and a security provider were once again at stake (cf. Friis and Murphy, 2000). It is hardly surprising then, that the EU extended the Regional Approach into a much more wide-ranging platform - the *Stabilisation and Association Process* (SAP). Instead of a mere trade and cooperation agreement, the SAP offered Croatia and the other Western Balkan states the prospect of a more substantial *Stabilisation and Association Agreement* (SAA) which provided, for the first time, albeit tenuously, the prospect of eventual accession to the EU (Fakiolas and Tzifakis, 2008: 383). Indeed, since its inception in May 1999, the EU projected the SAP as the ‘centerpiece of its policy in the Balkans’ (European Council, 2000) or, put differently, its central ‘policy framework for the Western Balkan countries, all the way to their eventual accession’. Analysts agree that the EU extended the prospect of future membership to these countries as a tool to avoid further instability and wars in the Balkans (Friis and Murphy 2000, Pippan, 2004). For Fakiolas and Tzifakis (2008: 385) the ‘regional stabilization - EU integration nexus’ is the crux of

this strategy, which additionally orders and fulfils ‘the condition that the prospect of EU accession depends on the pace of both of regional cooperation and the assimilation of European standards’ (see also Batt, 2004, Batt and Obradovic-Wolchnik, 2009).

In reality, however, the EU membership promise was a ‘hasty and reluctant award’ (Fakiolas and Tzifakis, 2008: 386), as manifested by the efforts of several countries led by France to dilute references to this prospect (Friis and Murphy, 2000). Considering that back then the EU was preoccupied with its ‘big bang’ expansion to the CEE and that the Western Balkan countries were in many respects ‘failed’ or ‘rogue states’, the SAP aimed therefore primarily at their ‘European transformation rather than at their accession into the Union’ (Fakiolas and Tzifakis, 2008: 387). But, the European Commission had to ensure the distant prospect of membership remained a credible incentive, given that the attraction of future membership was seen as the main reason why the post-communist CEE countries actually agreed to undertake dramatic domestic reforms as required by the EU (cf. Grabbe, 2001). As a result, the idea of manipulating the EU enlargement process was viewed by many in Brussels and other European capitals (particularly Berlin) as the only efficient way to discipline the SAP countries.

In many respects, the SAAs were thus not an innovative policy, but a replication of the European Commission’s Association Agreements with the eight CEECs, although with additional and specific elements of conditionality such as ‘stabilisation, regional cooperation, democratisation, cooperation with the ICTY and the development of civil society and institution-building’ (Papadimitriou, 2001: 77). The proposed SAAs also included economic and financial assistance and cooperation, political dialogue, harmonisation with the *acquis communautaire*, as well as the development of a free trade agreement between Croatia and the EU (Bartlett, 2003: 75). In addition to the SAA, the OBNOVA and PHARE programmes were complemented by the Community Assistance for Association, Democratisation, and Stabilisation (CARDS) scheme – a new assistance mechanism for the region. Moreover, unlike the eastern enlargement framework of the EU and its ‘regatta’ approach that grouped together individual candidate countries, the SAP scheme established that the rapprochement with the EU was to be ‘tailor-made’, based on the specific situation in the given country (Pippan, 2004). In this context, Croatia’s (much

like the other countries’) integration process was to be assessed against the country’s ‘own merits’ as well as capacity to deliver the required reforms (European Commission, 2006d).

4.4. The ‘watershed’ 2000 elections

The corruption on the part of the HDZ and the tycoons prompted increasing social resentment on the part of Croats who now felt that a small politically-connected elite had enriched itself while the majority of the population had been impoverished. In February 1999, social unrest began to spill into the streets, as 2000 workers from the department store chain *Diona* staged an angry demonstration in the centre of Zagreb. At the same time, the HDZ had lost credibility due to a succession of scandals in which senior HDZ figures were implicated, the allegations regarding the intelligence services, and revelations regarding the Tuđman family finances (Bartlett, 2003: 49-55). All these combined brought ultimately a sharp decline in popularity for the HDZ towards the end of the decade. It also instilled more unity among the opposition forces, which were now able to overcome their differences and form two anti-Tuđmanist coalition groupings aimed at taking advantage of the public discomfort in the forthcoming parliamentary elections scheduled for December 1999.

The main group was a partnership of the former communists [Social Democratic Party, (SDP)] and the social-liberals [Croatian Social Liberal Party, (HSL)]. Their coalition partners were a group of four smaller parties known as the ‘Group of Four’, including the Croatian Peasant Party (HSS), the Istrian Democratic Assembly (IDS), the Liberal Party (LP), and the Croatian People’s Party (HNS) (ibid: 57). Together these two groups formed a six-party coalition known as the *Sestorska* (‘the Six’). In November 1999, Croatia’s opposition parties signed the ‘Declaration of Post-Electoral Priorities’, vowing to create a common government, promising not to form a coalition with the HDZ, and agreeing on a common policy agenda, including transforming the semi-presidential system of government into a parliamentary one and integrating Croatia into Euro-Atlantic structures (Kasapović, 2003: 57, 61). In the meantime, the ruling HDZ, sensing the decay of its popularity among Croats, adopted a new electoral law in 1999 which, significantly, dispensed with the single-mandate constituencies and moved toward a system based on

proportional representation. Subsequently, Croatia's form of government developed from a single majoritarian type to a coalition one.

The campaign was brief with the HDZ being visibly weakened and demoralised by the death of its long-term leader¹⁰, by street protests and the series of corruption scandals that came to light in the previous parliamentary term (Bartlett, 2003: 55-56). Even more worryingly, Tuđman's death left the HDZ in a state of internal disarray, possessing neither leader nor identity. Power struggles soon erupted between the rightist and moderate wings of the party, as well as between the leaders of the HDZ right (Longo, 2006: 37).

On 3 January 2000, only three weeks after Tuđman's death, the *Sestorska* convincingly defeated the fractious HDZ, with a majority of 95 seats to HDZ's 46 (Jovic, 2006: 93). The six leading parties of the two coalitions built a sort of 'over-sized coalition government' on the basis of the signed pre-electoral agreements (Kasapović, 2003: 54, 57-58). Ivica Račan (SDP) was duly appointed prime minister. In the subsequent extraordinary presidential elections in January 2000, the HDZ experienced a further debacle. Stjepan Mesić (HNS) – the last President of Yugoslavia who in 1994 left the HDZ in protest against Tuđman's autocracy and Croatian involvement in the Bosnian War - was elected president (Søberg, 2007: 50). In retrospect, the defeat of the HDZ in the 'watershed' 2000 elections (cf. Vachudová, 2005) heralded a new era for Croatian politics as the country would soon move towards a 'second transition' including rapprochement with the EU.

4.4.1. The 'Europeanists' in office, 2000-2003

Compared to the nationalists, the democratic coalition (and even more so the new President) had a very different vision of Croatia's relationship with the international community. The new discourse was pro-European and much more pragmatic. Instead of competing with Serbia over Bosnia and Herzegovina and for supremacy in the region, the new government re-directed the country's foreign policy orientation towards the West.

Thus, as early as February 2000, the Račan government replaced the previous GOEI with a new fully-fledged organisation, the Ministry of European Integration (MEI), signalling 'its

¹⁰ In the autumn of 1999 Tuđman's health sharply deteriorated and he lost the battle with cancer on 11 December 1999, just before the election was scheduled to take place.

sincere determination and ambitious strategic objective of a fast-track and record-time accession to the EU' (interview with Mimica Neven; former Minister of European Integration). At the same time, the attitude of the West towards post-Tuđman Croatia also warmed drastically. After all, the success of the democratic forces in the 2000 elections provided a practical demonstration that Croatia had met the conditions regarding holding free and fair elections (Bartlett, 2003: 76). The constitutional amendments of 2000 and 2001¹¹ further reinforced such an impression as they were interpreted as re-launching the democratisation process in the country. Croatia now had to fulfil three more requirements in order to move forward in the integration process: full compliance with the Dayton and Erdut Agreements concerning the return of refugees; cooperation with the ICTY regarding the arrest and extradition of Croats accused of war crimes; and suspension of state support to ethnic Croats in Bosnia-Herzegovina (Fisher, 2006: 193-194).

Of those three conditions, the last one was the least painful, given that Tuđman's involvement in Bosnia was never very popular within the Croatian population (ibid: 194). Thus, Croatia under Račan soon began to support international institutions, rather than ethnic Croats and their nationalist party, the HDZ of Bosnia and Herzegovina. More importantly, following Slobodan Milosević's fall from power on 5 October 2000, relations between Zagreb and Belgrade became much warmer, and visas were suspended on both sides in 2002 (Jovic, 2006: 94). These changes were now seen as a break-through in the EU policy towards the Western Balkans.

Račan's Croatia had also showed some early positive signs towards the troublesome issue of cooperation with the ICTY. While the Tuđman government had been very reluctant to cooperate with the Tribunal, drawing a distinction between an act of war committed by an army on foreign territory (such as the case of the Yugoslav Peoples' Army attacks in Croatia) and a 'policing operation' on its own territory, which it argued was the case in the actions fought against the Krajina Serbs (Bartlett, 2003: 79), the Račan government initially appeared ready to make substantial progress in cooperation with The Hague.

¹¹ Constitutional amendments in November 2000 introduced a parliamentary system of government, ending the system of a 'dual executive' and the president's superior power position (Zakošek, 2002: 648). A further set of constitutional amendments was introduced in March 2001, abolishing the upper chamber of the *Sabor*, the House of Counties (see Chapter 7).

Quickly after coming to power, on 14 April 2000, the new government issued a *Declaration on Cooperation with the ICTY* in which it acknowledged the Tribunal's jurisdiction over the 1995 'Flash' and 'Storm' offensives in Krajina, therefore enabling the investigation of all war crimes (ibid: 79). It also quickly handed over requested documents from the secret service files concerning alleged war crimes by Croatian generals. At the same time, President Mesić insisted that all indicted war criminals should be arrested and extradited to The Hague in order to 'expunge the collective guilt of the nation' (Jovic, 2006: 97). For NATO, Croatia was now cooperating fully with the ICTY. As a result, by 25 May Croatia had been admitted to *Partnership for Peace*, with a view to joining NATO at a later stage.

Croatian-EU relations also improved dramatically in the reporting year with the EU approving its *Feasibility Study* on Croatia in May 2000, giving in general terms a favourable assessment of Croatia's position concerning the 1997 conditionality criteria (European Commission, 2000). Furthermore, at the June 2000 Santa Maria da Feira Council, the European Council proceeded with qualifying the SAP countries including Croatia as 'potential candidates for EU membership' (European Council, 2000). A few months later, at the 24 November 2000 EU's Balkan Summit held in Zagreb, the Council re-affirmed the country's 'European perspective'. In doing so, member states hoped that this decision would further strengthen the democratic forces which had just risen to power in Serbia following Milosević's forcible transfer to The Hague.

Croatia's SAA negotiations began in November 2000 and initially proceeded smoothly. Less than a year later, on 29 October 2001, the Croatian government signed the SAA with the EU in Luxembourg (Bartlett, 2003: 84). Considering the sheer volume of EU legislation, as early as December 2001 the Croatian Parliament amended its Standing Orders articles 136 and 161 to set detailed procedures concerning draft legislation to be harmonised with the EU *acquis*. Thus, as in Bulgaria, the Czech Republic, Slovenia, and Romania (Malová and Haughton, 2002: 111-112), Croatian law-makers opted for a shortened and 'fast-tracked' harmonisation procedure, which in essence meant limited parliamentary debates. Indeed, from the outset Croatia's integration into the EU was to be an executive-controlled process (Maršić, 2006; SIGMA, 2005a). In particular, in the

amended article 136 distinction was made between draft legislation that should be harmonised and other 'ordinary' draft legislation. Legislative proposals to be harmonised with the EU *acquis* carry the mark 'P.Z.E'. In terms of procedure, the article 161 provision basically represents a regular application of summary procedure for legislation that is being harmonised with the EU *acquis*.

Ratification of the SAA was expected to take a further two to three years, but in the meantime an Interim Agreement regulating the main free trade provisions and transport was signed with the European Commission. It came into force on 1 March 2002 (Sošić, 2007: 104). A number of new SAA-related institutions were created subsequently to enable Croatian officials to engage in discussions and coordination activities with their EU counterparts. On a higher political and administrative level, these institutions consisted of a Stabilisation and Association Council organised at the ministerial level, a Stabilisation and Association Committee organised at the level of senior civil servants and an Association Parliamentary Committee enabling intensive dialogue between Croatian parliamentarians and their counterparts in the EU (Bartlett, 2003: 84-85). Croatia also became eligible for the CARDS technical and financial assistance. In the framework of the CARDS National Programmes, the total financial allocation for the 2001 to 2004 period amounted to €262 million for the following five main priorities: democratic stabilisation; economic and social development; justice and home affairs; administrative capacity building; environment and natural resources (European Commission, 2005a: 6).

4.4.2. Intra-coalition bickering, declining popularity and the HDZ ascendant

Despite this confirmation of a European vocation, Croatia (along with the other SAP countries) was still not given any firm prospect for EU accession (Türkes and Gökgöz, 2006: 681). Rather, the prospect of membership was, as Fakiolas and Tzifakis (2008: 384) rightly contend, 'steadily bound to 'go hand in hand' with the double-edged process of reinforcing domestic democracy and regional reconciliation and cooperation'. As matters played out, this presented an insurmountable hurdle for the new governing elites. Indeed, by mid-2001 it became particularly difficult for the coalition government to balance the other two demands of the international community with those of the Croatian population, now increasingly Eurosceptic (see below). Without a doubt, the thorny issues of

cooperation with the ICTY, facilitating the return of refugees in Krajina and strengthening minority rights were extremely painful for Račan's first cabinet as they were effectively presented by the still strong Tuđmanist forces as encroaching upon the country's sovereignty and, more importantly, national identity. As Peski and Boduszynski (2003) contend, 'no issue has polarised the post-authoritarian Croatian political scene as much as the issue of cooperation with the International Tribunal for the Former Yugoslavia...'. For many Croats who saw the 'Homeland War' as a legitimate defence against Serb aggression it was hard to accept that Croats also committed serious war crimes (Søberg, 2007: 54). In effect, Croatia was, and still is, 'experiencing processes of identity conflict' (Freyburg and Richter, 2010: 269). Tina Freyburg and Solveig Richter (2010: 269-70) ably summarise the issue:

'Since democratic change took place in 1999/2000, the country has been 'clearly torn between the allure of European prosperity and the guardianship of newly gained nation-state sovereignty' (Tull, 2003: 132). On the one hand, the desire to maintain sovereignty is bolstered by the country's self-perception as a heroic, innocent nation that fought a defence war against Serbia. On the other hand, the European Union represents the positively valued 'in-group' to which this state seeks to belong [...] Croatia's national identity is thus characterized by the coexistence of two opposing streams, which open up different and contradictory options for appropriate action'.

Thus, in view of PM Račan's failure to 'cleanse' important segments of the administration of Tuđmanist forces, opposition to the new course of Croatian foreign policy soon came into the open. It is telling that the HDZ (still under the sway of the right faction) strongly objected to both the Zagreb Summit and the SAA, arguing that this was clear evidence of Croatia's 'return to the Balkans' (Jovic, 2006: 95). In fact, the Croatian government and President Mesić were criticised by the HDZ and its acolytes of being too 'indulgent towards Europe' (Sošić, 2007: 104). Although they could not stop the new policy, the HDZ together with various groups of veterans of the 'Homeland War', radical right-wing parliamentary and non-parliamentary parties, including the right-wing populist trade unions and some media, significantly obstructed and slowed down the implementation of necessary reforms including those related to the ICTY (Jovic, 2006: 95-96). Even more worrisome, Račan's new foreign policy led to the upsurge of nationalism, the subsequent destruction of the unity of his first cabinet and, most significantly, the resurgence of

support for the HDZ. In a related fashion, Euroscepticism among Croats was also on the rise.

The first party to leave the coalition was the regionalist IDS in a disagreement over economic policy and a dispute over the IDS proposal that Italian should become an official language in Istria (Bartlett, 2003: 60). Although a portent for the future, IDS's withdrawal in June 2001 did not cause the government's collapse. The most serious challenges for the internal coherence of the new government related to foreign policy, particularly to the issues of dealing with war crimes and cooperating with the ICTY.

Suffice it to recall here that the first Račan government was extremely hesitant (if not openly hostile) to cooperate with the ICTY on the case of two generals indicted for war crimes: Ante Gotovina and Janko Bobetko (Jovic, 2009: 14). Indeed, soon after the indictments of the two generals were made public, Tuđmanist forces (including the HDZ) united and massive protests were staged throughout the country demanding the resignation of the government and president (Jovic, 2006: 96-97). Even more worryingly, in February 2002, four ministers of the HSLs (the second-largest coalition partner) threatened to resign in protest at the government's decision to hand over Gotovina to The Hague (Søberg, 2007: 51). Faced by massive public protests and blocked by internal rifts between coalition partners, the government failed to act quickly, thus enabling Gotovina and Bobetko to avoid extradition, while at the same time severely damaging its international reputation. Subsequently, Croatia's progress toward EU accession decelerated considerably as evidenced by the refusal of the UK and Dutch parliaments to ratify the SAA.

While the government survived the exit of IDS in June 2001, the Gotovina issue, as well as differences over the relationship with Slovenia (see below), resulted in the resignation of the first Račan cabinet in July 2002. In particular, the HSLs became divided, with its larger and more nationalist-oriented faction subsequently joining the opposition. The other, smaller faction, namely the LIBRA, remained supportive of Račan's second four-party coalition government. But the intra-coalition clashes continued, this time between Račan's SDP and the more conservative HSS which on many occasions would side with the opposition HDZ, obstructing thereafter the smooth implementation of various reform initiatives (Jovic, 2006: 96; Kasapović, 2003: 65).

In the meantime, apart from causing the destruction of the internal unity of Račan's first government and the related hindrance of modernisation reforms, the issues of dealing with war crimes and cooperating with the ICTY also resulted in the resurgence of support for the HDZ (Jovic, 2009). In fact, the turnaround had begun much earlier with a strong showing in 2001 local elections, where the party benefited from the government's unpopularity over its economic and social policies (Bartlett, 2003: 61). Significantly, the HDZ's revival also owed much to its own gradual liberalisation. Following a series of internal squabbles and the ultimate victory of the moderates (cf. Longo, 2006), the HDZ under Ivo Sanader reinvented itself, changing from a hard-line nationalist and xenophobic party to a Christian-democratic conservative party (Konitzer, 2010).

Finally, the government was open to public criticism that Croatia was being treated more severely than the Federal Republic of Yugoslavia (later renamed as 'the State Union of Serbia and Montenegro') which despite persistent refusal to cooperate with the ICTY was still judged positively following the forced arrest and extradition of Milosević to The Hague. Many observers agree thus that this complex situation gave rise to the perception among Croats that the EU was treating Croatia more severely than the 'aggressor' Serbs (Bartlett, 2003: 82). Not surprisingly therefore, Euroscepticism rose and even doubled¹² (Sošić, 2005: 183) – a trend that will be further reinforced in the upcoming years (see below).

4.4.3. Application for EU membership and the Thessaloniki Agenda (2003)

Despite these problems, in December 2002, the *Sabor* adopted the 'Resolution of Croatia's accession to the EU' (Croatian Parliament, 2002) signalling an emerging cross-party consensus over EU membership. Following this, on 21 February 2003, the second Račan government submitted a formal request for full membership with the aim to accede to the EU as early as 2007, alongside Bulgaria and Romania. Significantly, this step was not widely welcomed in Brussels owing to the government's hesitancy to cooperate with the ICTY on the Gotovina case (Fisher, 2006: 194). But, with an eye on the promotion of stability and encouragement of democratic reforms undertaken at the time under PM

¹² Euroscepticism increased from 8.3 percent in 2000 to 16.3 percent in 2003.

Dinđić in neighbouring Serbia, the European Commission responded in July 2003 with a *Questionnaire* for the purpose of creating an *Opinion* concerning Croatia's request for EU membership. Already in October of the same year the outgoing Račan government provided the European Commission with a comprehensive reply (Sošić, 2007: 104-105).

In the meantime, the EU had confirmed on several occasions the 'European perspective' of the SAP countries, although it continued to shy away from providing a fully-fledged enlargement package to these states as it has done earlier with the acceding CEECs (Türkes and Gökgöz, 2006: 683). It is telling that the SAAs with Croatia and Macedonia kept pronouncing the respective countries as 'potential candidate states', without containing a formal commitment promising integration into the EU (Phinnemore, 2003). Thus, instead of being linked to membership, the successful implementation of the SAA was intended merely to lead to candidate status and the initiation of the accession talks. In short, the SAP was designed and viewed by Brussels and other European capitals as a '(pre) pre-accession policy framework' (Bechev and Andreev, 2004: 9).

4.5. The return of the HDZ in power and the re-launch of European integration

The year 2003 once again drew the attention of the international community to Croatia's politics. The opposition HDZ under its new president, the moderate Ivo Sanader, witnessed a major ideological reinvention from a nationalist party into a mainstream centre-right party that supported European integration and full co-operation with ICTY (Konitzer, 2010). New parliamentary elections were held in November 2003. The HDZ obtained the largest number of votes, but failed to acquire a parliamentary majority. Significantly, a major constraining factor in the process of cabinet formation was to be the EU's draconian 'democratic conditionality' for the region. Marijana Kasapović (2003: 55) summarises the issue:

'In Croatia, there was a sort of a redux of the 'Austrian syndrome', though with a different outcome. Just as it negatively reacted to the coalition government of the Austrian Folk's party (ÖVP) that included the right-wing Freedom Party (FPÖ), the European Union strongly objected to the possibility of the creation of a coalition government of the HDZ with the rightist HSP [Croatian Party of Rights]. However, in Austria the contentious coalition government was formed regardlessly, while in Croatia the HDZ forswore the coalition

with the HSP, primarily because Sanader feared that the European Union might use this as a pretext to turn down the Croatian candidacy for the membership’.

Instead of relying on the extreme-right HSP, Sanader chose to make a coalition with the HSLS and, more significantly, with the representatives of minority parties in the *Sabor*, including the Independent Serbian Democratic Party (SDSS). This presented a radical shift from the Tuđmanist policy of ‘marginalizing and discriminating against minorities, particularly the ethnic Serbs’ (Jovic, 2006: 98). In addition to adopting a more consociational and tolerant mode of governance, the first Sanader-led government moved quickly and vigorously to pursue policies that amounted to the implementation of the basic criteria for joining the EU and NATO. Under continued pressure from the EU, Sanader’s Croatia adopted policies to facilitate refugee return, housing reconstruction, property repossession, job growth, and social integration, as well as to secure property rights (Søberg, 2007: 53). The new government also continued to promote regional cooperation as a key Croatian foreign policy. On 15 November 2004, Sanader visited Belgrade (where he signed a bilateral agreement covering the protection of minorities), becoming the first Croatian prime minister to do so after the war. Significantly, the HDZ also accepted limitations on national sovereignty to push integration forward, particularly regarding cooperation with the ICTY. In March 2004, the ICTY indicted six high-ranking Bosnian Croat military officers (all residing in Zagreb) and two Croats from Croatia for alleged war crimes. With the tacit support of the Sanader cabinet, all eight voluntarily turned themselves in a month later, ‘without any major political repercussion’ (Fisher, 2006: 195).

To the surprise of many in Croatia and in the international community, Sanader’s Croatia seemed to have met, in a relatively quick manner, most of the thorny conditions set by the Euro-Atlantic structures (save the Gotovina issue). As a result, the initial scepticism of the EU about the new government was soon erased. Indeed, after a cool start, a process of rapprochement increased significantly in Sanader’s first year as premier. The government gained a favourable *Avis* from the European Commission in April 2004 and was granted candidate status by the Council two months later. The Council decided that accession talks would begin in March 2005 provided that Croatia fully co-operate with The Hague on the issue of general Gotovina’s indictment. Alongside its favourable Opinion, the European Commission recommended that ‘the EU develops a pre-accession strategy for Croatia and

is preparing the necessary proposals to this effect', while enclosing a draft European Partnership for Croatia - the document that identified the priorities that had to be addressed in preparation for accession. Moreover, as of January 1, 2005, Croatia, as a candidate state, became eligible for pre-accession funding, including PHARE, ISPA and SAPARD. Significantly, the UK and Dutch parliaments finally ratified the SAA which entered into force on 1 February 2005.

For the Sanader-led government the aforementioned decisions 'recognised [its] determination and ability to carry out reforms by fulfilling the Copenhagen criteria, and have provided the Republic of Croatia with support for its European initiatives' (Croatian Government, 2005: 3). Indeed, with Croatia now the first candidate state in the region of 'Western Balkans' about to open accession negotiations, 2004-2005 witnessed an important acceleration of reforms, including the organisational and procedural re-alignment in the EU-Croatian relations.

For many observers (including the European Commission), the Sanader government had made good progress with its own organisational preparations for the accession negotiations. In particular, in early 2005 the government amalgamated the former Ministry of European Integration with the Ministry of Foreign Affairs, appointing subsequently Ms. Kolinda Grabar-Kitarovic head of the national delegation for negotiations with the EU (Croatian Government, 2005: 31). The government also appointed the deputy head of the delegation, Mr. Vladimir Drobnjak, as chief negotiator. In February 2005, the presidents of Croatia's parliamentary parties reached agreement with PM Sanader on the heads of 13 negotiating groups bringing together the 33 negotiation chapters. Perhaps most significantly however, in March 2005, a 'National Committee for the Supervision of Croatia's Membership Talks with the European Union' was established in Parliament (parallel to the existing standing European Integration Committee) in order to expedite the EU accession process (European Commission, 2005a: 8). Tellingly, political consensus on the accession of Croatia to the EU constituted a radical break with the past. In effect, for the first time all of Croatia's parliamentary parties including the President of the Republic and the 'social partners' (trade unions, business association, etc.) consented on a single policy. The 'Alliance for Europe' as it is known includes representatives of the

parliamentary majority and the opposition, the academia, the Employer's Association, trade unions and the Office of the President of the Republic (Croatian Parliament, 2005). Significantly, it is headed by an opposition parliamentarian – in the reporting period former PM Račan acted as chairman of the National Committee. In many respects, the Croatian government set up a comprehensive and centralised 'foreign ministry-led' system of EU affairs management 'at home' (cf. Laffan, 2003). But despite that progress, the country's path to EU membership still remained conditional on Croatia's full cooperation with the ICTY on the Gotovina case.

4.5.1 The Gotovina case, the EU democratic conditionality and the contentious launch of accession negotiations (2004-2005)

As the set date for opening the accession negotiations was approaching, Croatian government was still falling short of full cooperation with the ICTY. Thus, in March 2005, Carla Del Ponte, the ICTY Chief Prosecutor, concluded that Croatia still did not take 'all the necessary steps' to improve cooperation with the Tribunal (cited in Fisher, 2006: 196). As a result, the European Council postponed the date of the accession talks with Croatia until this requirement was met (Jovic, 2006: 100-101). But, in order to keep the country well on the integration track and not disillusion the Sanader government over its credible intention to open negotiations, the European Council adopted at the same session 'a negotiating framework for Croatia' and 'agreed that a bilateral Intergovernmental Conference (IGC) would be convened by common agreement as soon as the Council has established that Croatia is cooperating fully with the ICTY' (European Commission, 2005a: 7-8). These interim incentives notwithstanding, the Council of Minister's negative decision on launching accession negotiations with Croatia brought increasing Euroscepticism in the Croatian public, which also affected support for the HDZ. According to the Eurobarometer opinion poll of 2005, only 30 per cent of the 1000 Croatian respondents claimed that EU membership was a good idea for Croatia, 48 per cent claimed that EU accession would make Croatia lose its national identity, while more than half believed that it would result in the loss of the national language (cited in Longo, 2007: 42).

At the same time, considering that accession to the EU was a key part of Sanader's reformist course (cf. Croatian Government, 2003), Sanader's opposition within and outside

HDZ was also on the rise. Thus, Sanader's favourite, the Deputy Prime Minister Jadranka Kosor, lost to the incumbent Stjepan Mesić in the presidential elections of 2005. The opposition manifested itself also at the 2005 local elections with the defection of Branimir Glavaš. In fact, the moderate Sanader was in a precarious position within his party which although purportedly cleansed from Tuđmanist forces still retained some very influential hard-liners, such as Andrija Hebrang and Luka Bebić. In a clear manifestation that Tuđmanists were still present (if no longer influential) in the state administration, several documents from the secretive operations related to tracking down Gotovina were leaked to the national press causing an outcry by the UK government (Fisher, 2006: 196).

Del Ponte visited Zagreb on 30 September to assess the situation prior to the 3 October European Council meeting, where the prospect of beginning accession talks with Croatia and Turkey was on the agenda. During her visit, she expressed dissatisfaction with the Sanader government's failure to fully cooperate with the Tribunal. But a few days later, the Chief Prosecutor unexpectedly confirmed that 'for a few weeks now, Croatia has been cooperating fully with us and is doing everything it can to locate and arrest Ante Gotovina' (quoted in *Press Online*, 2005). In effect, this cleared the last hurdle to the launching of accession talks, with the Council subsequently setting in motion the process. But, Croatia's full cooperation with the ICTY did not lead as such to the disappearance of the EU political conditionality as 'The Council agreed that less than full cooperation with ICTY at any stage would affect the overall progress of negotiations and could be grounds for their suspension' (European Commission, 2005a: 8).

Accession negotiations were opened with Croatia in October 2005. The initial screening of Croatia's *acquis communautaire* began on 20 October and was completed a year later. This process was followed by opening 33 set negotiating chapters, more than any previous applicant for membership in the then 25-member bloc. Moreover, on 15 October, the European Commission made public the first Progress Report reflecting Croatia's progress in the process of approaching the EU for 2005. Croatia's membership prospects improved drastically in December 2005 with the arrest of the General Gotovina on the Spanish island of Tenerife, after more than four years on the run. Also, in February 2006, the European Council adopted an Accession Partnership aimed at enhancing the pre-accession strategy

of the country. The purpose of the Accession Partnership was to set out in a single framework the priority areas for further work identified in the European Commission's Regular Reports on the progress made by Croatia towards EU membership, the financial means available to help Zagreb implement these priorities and the conditions which would apply to that assistance. Finally, in 2007, the EU introduced a new financial assistance program - Instrument for Pre-Accession Assistance (IPA). IPA presents an umbrella financial scheme that groups together under a single legal framework five of the Union's external aid tools (CARDS, PHARE, SAPARD, ISPA and the Turkey pre-accession instrument) (Fakiolas and Tzifakis, 2008: 390). Around €590 million have been made available to Croatia through IPA funding from 2007-2010, of which €446.4 million would be allocated through the Multi-Annual Indicative Planning Document for 2008-2010 (European Commission, 2007).

For many observers of the EU's enlargement politics, the Union's most effective disciplinary cum transformative tool, i.e., conditionality, has undergone a three-dimensional evolution in the immediate aftermath of the 2004 and 2007 enlargement rounds (Spernbauer, 2008: 275). As already noted, SAP countries are required to meet the *pre-pre-accession* conditionality related to a satisfactory track-record in implementing the SAA obligations before being considered by the EU as membership applicants (cf. Pippan, 2004; Fakiolas and Tzifakis, 2008).

The second evolutionary dimension regards the introduction of the 'tool of benchmarking'. In the European Commission's (2006b: 6) own words, benchmarks constitute a 'new tool introduced as a result of lessons learnt from the fifth enlargement, to improve the quality of accession negotiations, by providing incentives for the candidate countries to undertake necessary reforms at an early stage'. The concept of benchmarking aims thus at identifying concrete possibilities for improvement by comparing pre-defined indicators. In short, benchmarks aim at reducing uncertainty over what constitutes compliance in each *acquis* chapter and apply throughout such a chapter's 'lifecycle' (Spernbauer, 2008: 282). In terms of substance, *opening benchmarks* concern 'key preparatory steps for future alignment, and the fulfilment of contractual obligations that mirror *acquis* requirements', whereas *closing benchmarks* primarily concern legislative measures, administrative and judicial bodies, and a track-record of implementation of the *acquis*' (ibid).

A further novelty introduced in the aftermath of the Union's eastward enlargement, concerns the introduction of the new Chapter 23 'Judiciary and Fundamental Rights'. This chapter allows for issues which were previously addressed under the Copenhagen criterion and which had to be respected as a pre-requisite for the start of negotiations (*inter alia*, public administration and judiciary reform), to 'be decisive for progress in negotiations as such' (Spernbauer, 2008: 276). Finally, conditionality now reaches into the post-accession period by virtue of specific *safeguard clauses*, provided for in the Acts of Accession of 2003 and 2005, with the latter being reinforced by 'cooperation and verification mechanisms in the area of judicial reform and the fight against organised crime and corruption', endorsed by the Council in October 2006 (*ibid*). Considering all these new developments, it would not be erroneous to argue that Croatia's accession process represents the most ambitious, far-reaching and difficult application of the 'transformative power of Europe' (cf. Börzel and Risse, 2007) upon a third country's policy decisions and legislative developments. In fact, Croatia's accession is seen by many as a *sui generis* example of proper EU member state building (Grabbe et al. 2010).

4.5.2. Further hurdles to EU membership talks, 2007

Having removed the issue of ICTY out of the spotlight, Sanader's government declared that Croatia intended to conclude negotiations by 2007 and thus accede to the EU by 2009 at the latest (Croatian Government, 2005: 32). However, Brussels seemed less likely than Zagreb to stay on schedule. Indeed, Croatia's readiness to conclude accession negotiations at the end of Sanader's first mandate was to prove a very ambitious target as the government was soon presented with additional 'non-Copenhagen' requirements.

Two of them in particular were to be very significant. Firstly, unlike the 2004 and 2007 enlargement rounds of the EU, the pace of negotiations was to an extent contingent on the 'general state of the Union', which at the time had not found a solution for the constitutional crisis that plagued the EU in the aftermath of the 2005 Dutch and French rejections of the 'European Constitution'. As a result, in November 2005, the European Commission re-invoked the so-called 'absorption capacity' requisite - first introduced by the Copenhagen European Council of 1993 (2005b: 3). In brief, besides the infamous three 'Copenhagen criteria', the capacity of the Union to 'absorb new members, while

maintaining the momentum of European integration' (European Council, 1993: 13) was to be reiterated by European institutions in several occasions throughout the reporting period as if it constituted a 'fourth Copenhagen criterion' (Spernbauer, 2008: 281-82). Since its spectacular emergence in autumn 2005 and in the context of whether or not to open accession talks with Turkey and Croatia, many analysts have argued that the 'absorption capacity' concept might be used in future accession negotiations to slow down the pace of negotiations or maybe even to postpone a candidate state's accession (Inglis, 2005; Spernbauer, 2008). But, after considerable opposition from Sweden, Austria and Slovenia who persuasively argued that absorption capacity should be viewed as an internal problem of the EU and could not be a criterion for the accession of a new country (*Slovenian Business Week*, 2006), the June 2006 Brussels summit declared that the 'absorption capacity' would not be a new criterion but 'a condition or the other side of the coin of the enlargement process' (Forbes, 2006) – thus soothing somewhat Croatian fears.

Zagreb was further assured that the 'absorption capacity' criterion does not concern its EU membership ambitions by Paris's decision to exclude the country from a new constitutional provision that subjected all future EU accessions beyond that of Bulgaria, Romania and Croatia to a popular vote. Some uncertainty had been generated by reservations about the Turkish candidacy for EU membership on the part of France, Denmark and the Netherlands, and, partly by a growing sense of 'enlargement fatigue' among European citizens (Fakiolas and Tzifakis, 2008: 394-95). It is in this context that the president of the European Commission, José Manuel Barroso, warned that 'no new members should be admitted until after the EU had updated its creaking institutions by ratifying at least part of the draft constitutional treaty' (quoted in *Financial Times*, 09/10/2006).

The second major obstacle threatening to block Croatia's advancement towards EU entry was the country's bilateral problems with neighbouring countries, particularly Slovenia and Italy. For the reporting period, the outstanding issue that in effect led to the 'silent blockade' of accession talks both by Slovenia and Italy regarded the planned implementation (scheduled for January 1, 2008) of a government regulation related to the Protected Ecological and Fishery Zone (ZERP) in the Adriatic.

In brief, Croatia's unilateral decision of October 2003 to expand its jurisdiction in the Adriatic through an ecological and fishing zone provoked considerable tensions with neighbouring Italy and Slovenia. The zone had widespread support in Croatia from all major political parties, including the SDP, HSS and Democratic Centre. The HDZ was a cautious supporter, wary of the EU's response. In October 2003, within the framework of good neighbouring relations of the SAA the European Council 'called on Croatia to urgently pursue a constructive dialogue with its neighbours [...] to meet the concerns of all the parties involved' (cited in European Commission, 2004: 36). Following mounting European pressure that threatened to put on hold Croatia's entry negotiations, Sanader promised in early 2006 to exempt EU members from restriction. But, despite opposition abroad, Sanader's government decided eventually to 'scrap the deal' in December 2006 'apparently under domestic political pressure' (*HINA*, 07/12/06). Subsequently, the European Commission reacted strongly, saying Croatia should refrain from activating the zone without consulting the two other countries, both of which are EU members. Eventually, accession negotiations were put on standstill until Croatia yielded to EU pressure in March 2008. Unsurprisingly therefore, euroscepticism still remained high, with fewer than 50 per cent of Croatian citizens supporting EU accession in 2006 (Štulhofer, 2007: 142). At the same time, a recent study on Croatian euroscepticism suggested that 'popular [e]uroscepticism [...] is today a coherent socio-political option with relatively stable motives' (Štulhofer, 2007: 148).

4.5.3. Contentious accession: persisting uncertainty and blockades, 2008-2010

A new coalition government led by the HDZ was endorsed by the *Sabor* in January 2008. This coalition was broader as it was based on an alliance forged with the HSS and the HSLs. The new government's strategy, as described in the *Program of the Government of the Republic of Croatia for the 2008-2011 Mandate*, reiterated EU membership as the country's primal strategic goal. But, as noted above, accession negotiations were put on hold due to the ZERP controversy.

Eventually, under heavy European pressure, the new government 'gave-up ZERP' on 10 March 2008 when PM Sanader after a critical cabinet session in which the Enlargement

European Commissioner, Olli Rehn, was also present, announced that the country will not implement ZERP until Croatia joins the Union. Significantly, a day earlier Sanader had managed to contain the loud resistance of two of his coalition partners, namely the HSS and HSLS, which had strongly advocated a more protectionist policy in agriculture and fishing during the coalition-building negotiations in December 2007 in exchange for their support to Sanader's government. Thus political conditionality (in particular the criteria of regional co-operation and good-neighbourly relations) was indeed instrumental in conditioning compliance and consequently unfreezing the accession negotiations.

Following these positive developments, a number of incentives were given to the country on the part of the EU. First, the accession process resumed at the end of 2008 when 21 out of 35 negotiating chapters were opened and four provisionally closed (European Commission, 2008a: 5). Secondly and perhaps most significantly, in its communication on enlargement strategy adopted on 5 November 2008, the European Commission proposed an 'indicative road map' for reaching the final stage of accession negotiations with Croatia (European Commission, 2008b). In addition, the European Commission stated that it should be possible to reach this final stage by the end of 2009, provided Croatia fulfils all the necessary conditions (European Commission, 2009a: 5). In particular, this 'indicative timetable' envisaged the closure of four more chapters by the end of 2008, a further eleven chapters in the first half of 2009 and the remaining sixteen chapters in the second half of 2009 (European Commission, 2008b). In setting such an ambitious target for finalising the accession talks, the European Commission aspired to accelerate reforms in Croatia and thus meet the benchmarks for opening and closing the remaining chapters. It worked. According to the October 2009 Commission report, the roadmap has successfully prompted Croatia to initiate and complete the reforms necessary to close twelve negotiation chapters. In fact, with this 'indicative roadmap' the European Commission went one step further in clarifying the still vague entry date in order to galvanise domestic reforms, which had now moved to more contentious areas such as judicial reform, tackling organised crime, corruption and shutting inefficient state-run shipyards and steelworks. These encouraging developments notwithstanding, Croatia was soon to face another debacle in its hopes to finish accession talks in 2009 in preparation for EU accession in 2010.

On 8 December 2009, EU foreign ministers refused to back the European Commission's call for a reference to an end-date for Croatia's EU accession negotiations, judging that the country was still at an early stage and the proposed target ambitious. But, in actual fact, the refusal to adopt a concluding date for accession negotiations underlined the challenges still facing Croatia, not all of which were in Croatia's power to tackle. The obstacles standing in Croatia's way can be summarised as follows:

First, Croatia had problems with regard to corruption and organised crime. These were amply demonstrated in autumn 2008 with the assassinations of Ivana Hodak and Ivo Pukanić. The EU condemned these killings, whilst expressing its view that the killers should be brought to justice. At the same time, Hannes Swoboda, European parliamentary rapporteur on Croatia, said growing crime had become Zagreb's 'most serious obstacle' in accession talks while cautioning PM Sanader that 'The government must succeed in its efforts to bring about order and so eliminate the apathy demonstrated in these last few months and years, or there will be no early entry for Croatia into the EU' (*EUobserver*, 27/10/2008). Evidently, the embarrassing example of Bulgaria which joined the EU before the 'job' was done made Brussels take extra care with its future members in the 'Western Balkans'. It worked.

PM Sanader replaced the ministers of justice and interior as well as the head of the Croatian Police in an attempt to keep Croatia's hopes for EU accession alive while depoliticising the security and justice sectors. Non-HDZ members were duly appointed to the ministerial posts. More significantly, moves to tackle corruption in administration and state-controlled companies have advanced through a number of high-profile investigations and arrests since PM Sanader's unexpected resignation in July 2009. 'Somewhat similar to Romania, we also started a real fight against corruption in the final stages of our EU entry talks,' said political analyst Davor Gjenero (quoted in *ekathimerini*, 30/01/2010). In January 2009, the daily *Jutarnji List* published a list of 20 top managers from companies, banks or state institutions who are in custody on corruption charges (*ibid*). Indeed, in the words of Justice Minister Ivan Simonović, 'With Kosor's arrival, [chief state prosecutor] Mladen Bajic was given free rein,' (*ibid*). PM Kosor's¹³ anti-corruption efforts have been

¹³ Jadranka Kosor (HDZ) rose to power unexpectedly in July 2009 following Sanader's sudden resignation.

further reinforced by election of a new president, Social Democrat Ivo Josipović, a law expert who has pledged full support to her campaign.

Second, there problems remained with the Dutch, UK, Finish, and Belgian governments over the ICTY. As noted, the Netherlands and the UK adopted a very firm stance on the question of ICTY co-operation back in early 2000s, blocking the ratification of Croatia's SAA on the Gotovina/Bobetko case. This time, the above cited member states showed some reservations concerning the opening of the 'Judiciary and Fundamental Rights' chapter, after the new ICTY Chief Prosecutor, Serge Brammertz, had criticised Croatia for its failure to deliver some key military files from the August 1995 'Oluja' offensive, related to the trial against Generals Ante Gotovina, Ivan Čermak and Mladen Markač (*EuroActiv*, 26/11/2009). In turn, Croatia insisted that some of the documents never existed, while others were missing. Unsurprisingly therefore, Chapter 23 has been purposefully left last in the negotiating timetable. Arguably, insistence on full co-operation with the ICTY has served an additional purpose for the afore-mentioned governments, as public opinion has been cool on EU enlargement and the ICTY issue was a useful way of delaying the process.

This touches on the third issue: enlargement fatigue. Across the EU's core states there has been a concern over what to do about Turkey's application (allowing Croatia entry will push that decision closer to the top of the EU agenda) and a desire to settle the EU's institutional arrangements before further enlargement (cf. Piedrafita, 2008). On top of these hurdles, the June 2008 Irish 'no' vote on the so-called 'Treaty of Lisbon' (a circumvented version of the original 2004 'Constitutional Treaty') stopped the ratification process in midflow, casting doubts on the EU's ability and readiness to resume enlargement talks in 2009 as originally planned (Fakiolas and Tzifakis, 2008: 394-95). In particular, the French President Nikola Sarkozy and the German Chancellor Angela Merkel repeatedly pointed that 'without [the Lisbon Treaty] there could be no widening of the European Union'. These statements created a certain degree of confusion in Zagreb given that at the same time Croatian negotiators were assured that the country could accede to the Union irrespective of the ratification of the Lisbon Treaty as the country's very accession treaty could 'sneak in' the so-called 'Irish Protocol' – by giving Ireland concessions in exchange for its 'yes'. In the end, it was the 2008 global financial crisis and its adverse impact on the

Irish economy and not Croatia's dashed prospects for EU membership that proved to be instrumental in persuading the Irish to finally endorse the Lisbon Treaty at the end of 2009.

A further positive signal that Croatia is heading for EU membership is linked to guarantees offered to the Czech Republic by the European Council of 29-30 October 2009. Czech President Václav Klaus signed the much awaited Lisbon Treaty on the condition that Germans expelled from Czech Republic after Second World War would not be in a position to claim their land back once the Treaty has entered into force. Considering the impossibility of amending the Lisbon text at this stage of the ratification process, EU leaders eventually agreed to attach these formal guarantees as a new declaration to Protocol 30 of the Lisbon Treaty (*Euractiv*, 30/10/09). According to Czech sources, the clause is expected to be added to Croatia's EU accession treaty, 'implying that Croatian membership is a *fait accompli*' (ibid).

Fourthly and most significantly, there were continuing problems with Slovenia, which touched on the disputed land and maritime border in the Bay of Piran. In brief, this border dispute concerned small pockets of land along the Adriatic coast, which could prove important if accompanied by exclusive access rights to deep-sea zones. Croatia argued for the maritime frontier to be drawn down the middle of the bay. Slovenia, which has a much shorter coastline than its neighbour, feared that this would deny its ships direct access to the Adriatic. But, after Slovenia entered the EU in 2004, it found itself in position to put pressure on Croatia to resolve some of those allegedly 'bilateral' issues to its benefit. Thus, similar to the ZERP controversy that held up accession talks a few months earlier, the new Slovenian prime minister, Borut Pahor, accused Croatia of prejudging the border in some negotiation chapters with the EU. Eventually, despite several mediation attempts on the part of the European Commission and individual member states, Slovenia used its veto power to prevent Croatia from opening nine out of ten negotiating chapters on offer during the Intergovernmental Conference held on 19 December 2008. In effect, Slovenia's blockade of Croatia's EU accession stalled the negotiating process for ten months. As a result, hopes died for Zagreb's objective of wrapping up accession talks by the end of 2009 and joining the bloc in 2010.

Apart from decelerating Croatia's accession process, the Slovenian blockade threatened Euro-Atlantic integration in the 'Western Balkans'. For the international community,

particularly the EU and the USA, Croatia represents a benchmark for the ultimate success of the SAP (Grabbe et al. 2010). Possible failure to integrate Croatia in the Euro-Atlantic structures would immediately signal Europe's failure to transform the region of Western Balkans. With the eye on Bosnia and Herzegovina, Brussels, and at a later point Washington, also got alarmed.

Eventually, under strong foreign pressures (mostly American) Slovenia's blockade ended in mid-September 2010, and accession negotiations began. Indeed, by April 2010 talks had opened on 30 out of 35 chapters and a provisional agreement had been reached on eighteen. Yet, still much was to be done before Croatia signed the Accession Treaty. In the words of the new enlargement commissioner Štefan Füle: 'The last leap will be the hardest'. Attention now shifted to four chapters that were yet to be opened: Chapter 8 'Competition Policy', Chapter 23 'Judiciary and Fundamental Rights', Chapter 31 'Foreign, Security and Defence Policy' and, perhaps most significantly, Chapter 24, labelled 'Justice, Freedom and Security'. Chapter 24 was seen as particularly challenging, as Croatia needed to convince the EU (and some sceptical member states such as the Netherlands and the UK) that it was effectively fighting organised crime and corruption and that it was fully co-operating with the ICTY on the issue of military files related to the 1995 'Oluja' operation. Chapter 23 was also of paramount importance as the country was required to intensify the reforms in the sectors of public administration and justice (see chapters 5 and 6).

With the pressure now on for accession negotiations to be concluded at the beginning of 2011, the Croatian parliament, on 16 June 2010, adopted key amendments to the constitution in order to bring it in line with EU requirements, in particular those related to minority rights and the voting rights of EU nationals in the country (*Euractiv*, 17/06/2010). Significantly, Croatian elites were assured that no post-accession monitoring mechanisms like those put in place for Bulgaria and Romania were envisaged for Croatia (*Euractiv*, 30/03/2010). At the time of writing (September 2010), all remaining negotiating chapters have been opened, including the controversial Chapter 24. That said, Croatia is well on track to approach the finishing line in its EU membership negotiations and sign the Accession Treaty during the Hungarian European Council Presidency scheduled for the first quarter of 2011. By doing so, Croatia will be the second country (after Greece) to

enter the EU on its own. Equally importantly, Croatia will also be the first Western Balkan state to do so, thus extending the EU's borders further in this war-ridden region.

4.6. Conclusion

This chapter reviewed Croatia's sluggish road to EU membership, beginning with the EC-Yugoslavia Trade and Co-operation Agreement. In the early 1990s, the country's prospects for fast-track accession to the EU seemed more propitious than those of the other former communist states of Eastern Europe given Croatia's quasi-liberal socialist economic system and strong ties with the West. But, as theory predicts (cf. Vachudová, 2005), while the EU's 'passive leverage' (the attraction of membership) was present, the EU refused to employ its 'active leverage' (enlargement policy and instruments) in the country for reasons to do mainly with the authoritarian patterns of government informing post-Yugoslav Croatian politics. Indeed, the war and the subsequent installation of the authoritarian regime of President Tuđman explain by and large the country's poor engagement with European integration in the 1990s. In fact, as predicted by theory, the political costs of compliance with the EU's 1997 Regional Approach conditionality were high for the HDZ government as fulfilling EU conditions threatened the survival of the regime (cf. Schimmelfennig, 2008: 918-19).

Following the regime change in 2000 and the subsequent investiture in office of democratic forces, there is more of a story to tell with respect to EU-Croatian relations. As part of the democratisation process and the corresponding international openness of the country, successive Croatian governments declared EU membership one of their primary strategic objectives. In response to the re-launch of the democratisation and marketisation processes, the EU offered Croatia the prospect of membership through the SAP. Croatia had first to cooperate with its southern neighbours as well as deal with her past and then proceed with meeting *acquis*-related conditions. In fact, Croatia was subject to the most challenging, draconian and uncertain form of membership conditionality ever employed by the EU. Whereas the previous eastward enlargement of the EU was a 'big bang' process, Croatia has been alone in its lengthy accession process. Furthermore, Croatia's accession to the EU evolved through a number of stages (pre-pre association, pre-association, association, and accession) and was subject to ever tighter monitoring and evaluation mechanisms. As theory predicts (Haughton, 2007), the EU's power was particularly strong

in the timing of opening the accession negotiations. But the EU's conditionality carried on into the accession process, where Croatia was confronted with a series of obstacles which, for the most part, were subject to unilateral demands by member-states, utilising the country's bid for integration as a lever to achieve compliance. Overall, the country's Europeanisation process is assumed to have been significantly shaped by this 'turbulent' historical context and its dynamics, as well as by various actors' strategies and positions.

5

Civil Service

5.1. Introduction

So far, this thesis has centred on conceptual, theoretical and historical questions. This chapter presents the first of the substantive case studies to be dealt with in the thesis. In particular, this chapter examines the EU's impact on Croatia's civil service system. Civil service reform [as part of the broader process of public administration reform (PAR)] has proved to be difficult and contentious in many European countries, including those aspiring to gain admittance to the EU. The EU's efforts to coordinate a reform programme in this area confronts major challenges at the domestic level, not least, lack of EU 'administrative *acquis*' (cf. Olsen, 2003) and resistance from current stakeholders. The problem appears particularly acute in Croatia considering its authoritarian traditions (leftist and rightist) that for decades have obstructed the development of a Weberian-based bureaucracy (cf. Goetz, 2001). In the context of post-authoritarian transition to market democracy an impartial and professional civil service is necessary to consolidate democracy and the 'rule of law', as well as an open and competitive market environment. Experience from many countries reveals that administrative reform is a 'time consuming process' which requires material and human resources which, significantly, 'are often cruelly lacking' (Fournier, 1998). PAR presupposes behavioural transformation too which can only come about very incrementally. At the same time, there are strong fiscal imperatives for reform as administrative costs seem set to spiral. The size of the state in

Croatia remains high by international standards: public expenditure accounts for nearly half of the GDP, some nine percentage points above the average for EU10, reducing the fiscal space to finance EU accession requirements (World Bank, 2008: 5) The current public administration regime has thus far proved largely ‘sticky’ (Pierson, 2004) despite two (failed) rounds of civil service reforms (1994 and 2001). Political elites and current stakeholders have provided very strong opposition to reform endeavours. The government’s reform capacity including political will has been in doubt. However, EU accession provides strong (albeit ‘soft’ in the form) incentives for horizontal administrative modernisation.

The structure of the chapter is set out below. Section 2 provides a brief history of the civil service system in Croatia before 1990. Section 3 discusses the mechanisms of ‘reproduction’ and ‘continuity’ which arguably circumvented the first round of post-communist civil service reform in Croatia (Section 4). Section 5 discusses the EU requirements in the realm of the civil service, placing particular emphasis on the strengths and weaknesses informing the Union’s ‘bureaucratic criterion’. Section 6 discusses the unsuccessful second round of civil service reform in 2001, whilst Section 7 shows how the Croatian civil service system underwent a third round of reforms under co-ordinated foreign conditional incentives. Sections 8 and 9 assess the degree of domestic compliance and the EU’s power to secure something more than formal compliance prior to accession. Section 10 provides a summary of this chapter.

5.2. A brief history of the civil service system in Croatia before 1990

Croatia has a long and rigid public administration tradition. It is mainly rooted in the Continental (Austrian) model, with influences from other socio-political orders, most predominantly the public administration (and jurisprudence) culture of the first (1918-1941) and second (1945-1991) Yugoslav states (cf. Medvedović, 2003; Koprić, 2006a; Omejec, 2008).

5.2.1. First Yugoslavia (1918-1941)

In the period up to 1918, the status of Croatian civil service was principally determined by the developments of the Austrian-Hungarian civil service system, meaning that the country

did not develop an indigenous civil service blueprint. Most of the basic characteristics of this system became the basis of public administration in the Kingdom of Serbia, Croatia and Slovenia (SHS- from 1921 – Yugoslavia) (Sević and Rabrenović, 1999: 52-53). In the first two years of the common state, the administrative organisation of the SHS was quite diverse with the ‘newly liberated lands’ Croatia and Slovenia being allowed to maintain their ‘autonomous’ Austrian-based local civil service regimes. However, in the early 1920s significant changes were brought about as emphasis shifted at ‘unity and centralisation’ aiming at integrating a multi-ethnic and culturally diverse state; thus, a standard and unified system was applied throughout the country (ibid: 52). The basic organisation of the civil service was set out by the Constitution of 1921, which was largely inspired by Austrian legal traditions. Recruitment was based on a career-track system and the completion of a traineeship. After a probationary period lasting up to three years, appointment to a post was for life (ibid). Following the proclamation of the ‘royal dictatorship’ and change in the name of the kingdom by King Alexander I in 1929, Yugoslavia’s civil service gained in importance and professionalism as new laws introduced in the early 1930s stressed the independence of the civil service from politicians and strengthened its loyalty to the state. It was then that Yugoslavian civil service became highly unionised, aiming at maximising its welfare through professional associations, such as the Yugoslav Association for Public Administration established in 1930 (ibid: 73).

5.2.2. Second Yugoslavia (1945-1991)

The codification and professionalisation of the Yugoslavian/Croatian public administration system was influenced by the infamous ‘split’ between Tito and Stalin in 1948 and the subsequent quasi-liberal ‘self-managed’ course of Yugoslavian communism. However, the civil service in Yugoslavia has a very long tradition that even the forty-five years of communist rule could not wipe out. Undoubtedly, pre-war legislation was an important source of continuity, as evidenced by the important distinction between civil servants and ordinary workers in the country’s legal system (Sević and Rabrenović, 1999). That said, the service maintained, to a high degree, its impartiality and an acceptable level of professionalism.

These positive trends notwithstanding, Yugoslavia's (and by extension Croatia's) civil service system was marred by the emerging authoritarian regime of Marshal Tito. Indeed, the leftist authoritarian nature of the second Yugoslav state meant the effective re-modelling of the civil service on the basis of Marxist-Leninist principles and requirements, such as the 'unity of power' (as opposed to the separation of powers doctrine) from mid-1970s onwards¹⁴. Eugune Pusić (1985), one of Yugoslavia's leading academic in administrative science, argues that, in recruitment policy, the *nomenclature* system, or the 'cadre' policy in the Yugoslav case (Sekulić and Sporer, 2002: 97), ensured partisanship and political reliability amongst members of the state administration. But, this statement should also be moderated, as the Titoist 'self-management' concept ensured that 'there was a clear distinction between party administrative staff and civil servants' (ibid: 99).

Notwithstanding their differing approaches, most analysts seem to converge on the fact that politicisation was more evident in the highest levels of state power, where administrative and political authority was merged. Such strong entanglement bore significant consequences for the development of a particular bureaucratic practice and ethos that privileged the concept of the 'unity of authority', meaning obedience, loyalty and unquestioning servitude (Pusić, 1985). Again, what is hardly undisputable is that under an authoritarian regime the mentality of an obedient executing state administration was largely reproduced and therefore habitualised in the course of time through a socialisation process as citizens (including civil servants and legal experts) accepted their subordinate status *vis-a-vis* the *state* as obligatory for all society members (Omejec, 2008: 10).

Because Yugoslav authoritarianism required constant and all-pervasive control, it produced a heavily over-administered state in which 'armfuls of pieces of paper' were needed for everything from internal travel to renting a flat. This culture of over-regulation (itself partly influenced by the Austrian blueprints) implied a formalistic and 'cynical' adherence to the 'letter of law' which, in turn, forged an ineffective, over-bureaucratized and

¹⁴ The 1978 Law on the Basics of the System of the Public Administration, Federal Executive Council and Federal Administrative Organs transformed civil servants from a public servant to a 'worker in public administration'. As Sević and Rabrenović (1999: 56) note, this fulfilled the ideological premise that all those employed should be fully equal regardless of the organisation in which they worked. But, in reality the new law changed little. The public service tradition was very strong, and the public perception of professional 'public servants' remained unchanged (ibid).

scholastic attitude toward administrative practice (including jurisprudence). In fact, a powerful tradition of 'bureaucratic control', secrecy and closed ranks defined executive-administrative authority leading to 'patron-client' relationships rather than service in state administration. This bureaucratic unresponsiveness, in turn, exacerbated citizens' collective need to find 'connections' for various situations they encountered, such as the courts, enrolling their children in school, or making a doctors appointment (ibid). Corruption was thus an endemic and systemic by-product of Yugoslavia's leftist authoritarianism.

5.3. The 'nationalist' take-over, 1990-1999

5.3.1. Croatia in transition: The mechanisms of reproduction and continuity

When 'historical causation' (cf. Stinchcombe, 1968: 103-18) is at work, 'mechanisms of reproduction' (cf. Thelen, 2003) need to be specified. Thus, the study claims that when the old system ended with the declaration of independence in June 1991 and the ensuing non-peaceful severance of relations between Croatia and SFR Yugoslavia (SFRY) in October 1991, no extensive 'de-institutionalisation', i.e., institutional or normative 'replacement', took place in the country's bureaucratic edifice. First, no extensive 'rejuvenation' occurred in the country's political and administrative elites which allegedly 'survived [the] transition' (cf. Sekulić and Sporer, 2002: 90; Grubiša, 2005: 66-67; Rodin, 2007). Second, a significant part of relevant key Yugoslav legislation was 'taken-over' by the new Croatian state as its own national legislation (Uzelac, 2003; Omejec, 2008).

As regards the first mechanism of continuity, i.e., 'elite reproduction', the *national reconciliation* of Croatia's powerful ultra-left and ultra-right segments was one of the main aims of the new HDZ establishment (Cohen, 1997: 76). In practice, this meant that initially only a marginal grouping of former civil servants, most notably ethnic Serbs and communist hardliners, were purged by the new leadership (Sekulić and Sporer, 2002: 87; Cohen, 1997: 81). According to Koprić and Marčetić (2000) approximately twenty per cent of state civil servants were replaced, as well as ten per cent of public service employees. Reflecting the nationalist nature of the regime, the national composition of the administrative elite changed thus from an over-representation of the Serbian minority to its disappearance (Sekulić and Sporer, 2002: 93). This trend of 'replacement' notwithstanding, the regime transformation 'did not bring extreme circulation, but only

slightly more new entrants than would have been expected under non-revolutionary conditions' (ibid: 89). Sekulić and Sporer (2002: 95; emphasis added) summarise the point well:

'The post-communist elite brought in a large number of political émigrés and former communist functionaries who had become dissidents in different phases of communism (President Tuđman being the prototype), and who were older than the 'technocratic' communist elite in 1989. [Thus] in Croatia the replacement of the reformist Communist regime with the nationalist-populist regime meant that the elite became *older*.'

Simultaneously, the Public Officials and Public Servants Act of October 1994 (*Official Gazette*, No. 74/94) stipulated that public officials with a minimum of ten years of experience need not pass the public service exam (Rodin, 2007: 237). Ultimately, this provision enabled the survival of public servants employed after 1984. Therefore, as Rodin (2007: 238) rather cynically notes 'involvement in pre-democratic institutions was not only an obstacle, but even a recommendation for appointment to the highest public offices'. In reality, the survival of a large number of the old 'cadre' and the delay of generation change meant that 'gerontocracy' and thus conservatism and acquiescence to previous *status quo* prevailed over elite rejuvenation, progress and transformation. Moreover, the fact that the administration passed through hard times in the first period of the Croatian state (1990-1996) only reinforced its position as a 'passive executor of orders from above' (Omejec, 2008: 52). Jasna Omejec (2008: 15), a leading professor of administrative law and president of the Constitutional Court in Croatia, ably summarise the point:

'In those circumstances [warfare], the Croatian administration was not given an opportunity to face the challenge posed by the 1990 Constitution, especially in the essence of its work with respect to the principle of legality [...] In other words, the state of emergency in the country strongly influenced the administration, which itself operated in extraordinary circumstances. It was in this modified regime of legality that the administration gave up the requested modification of its behaviour: rather than beginning to adapt to new requirements posed by the 1990 Constitution, it continued to receive orders from its superiors and to act accordingly, as it had been doing for decades. Only the cause of such behaviour had changed: now it was the defence of public interests in the state of emergency, which threatened the viability of the state.'

In addition to the regime's nationalist nature, the emergency conditions of warfare and the related imperative of state-building were another very important mechanism that helped reproduce some essential elements of past arrangements. Naturally, the high ideals of democracy and human rights proclaimed by the new Constitution (promulgated in

December 1990) were put into ‘second row’, behind the fight for independence and defence from aggression (Uzelac, 2000: 5; cf. Omejec, 2008). On the other hand, as Omejec (2008: 48) rightly notes, ‘the period between 1990 and 2000 was no vacuum’. On the contrary, this period left behind ‘a tremendous corpus of legislative material’ (ibid). More precisely, in Croatia’s abnormal war conditions, the executive’s (particularly the President’s) constitutional right to legislate through decrees with full legal force (Art. 101) resulted in an immense bulk of so-called ‘war legislation’ which permeated all areas of state, social and economic life, ranging from most public services, main administrative departments to the organisation and work of courts (Zakošek, 1994; Omejec, 2008). The Croatian legislator also adopted a number of so-called ‘transitional’ acts related to the social ownership transformation (most notably property rights and privatisation).

Following the end of warfare in 1995, the Croatian legislature enacted a series of so-called post-war reparation legislation related to the return of refugees and displaced people, reconstruction of war damaged infrastructure, as well as legal categorisation of Croatian war veterans. Around the end of the period of the state of emergency (on 5 November 1997), Croatia also adopted the obligation on immediate and direct application of the Convention for the Protection of Human Rights and Fundamental Freedoms as part of its membership obligations in the CoE. This brought about a set of brand new rules as well as obliging the Croatian government to harmonise existing ones with European standards. In parallel with this activity, successive HDZ governments adopted legal provisions that helped the country sever relations with the SFRY and build an independent unitary state.

Perhaps most significantly, the nationalists adopted SFRY legislation despite their ‘uneasiness’ with anything socialist (Omejec, 2008: 15-23). In particular, the legislator stipulated that the ‘taken-over’ laws should be harmonised with the Constitution no later than one year after the adoption of the latter (i.e., by 22 December 1991)¹⁵. In practice, due to the state of emergency, the regime’s conservative bias and the law-drafting frenzy related to the demanding establishment of market mechanisms that characterised the immediate phase following independence (cf. Bartlett, 2003), the constitutional deadlines

¹⁵ Art. 4 of the Constitutional law on the implementation of the Constitution of the Republic of Croatia, (NN 56/90)

for the harmonisation of the ‘taken-over’ socialist legislation were extended several times (Omejec, 2008). In this context, old legislation and structures in the area of public administration and judicial review (see next chapter), such as the General Administrative Procedures Act, Administrative Disputes Act, Courts Act or the Administration Act of 1978 were literally transferred unchanged into the country’s ‘new’ legal order, which itself resembled now an inconsistent, yet interdependent (cf. North, 1990), ‘patchwork of different normative systems’ (Omejec, 2008: 50). Overall, all these special legal systems have created over time a strange normative-regulatory apparatus which the citizens, but also its immediate implementers, find very difficult to cope with (ibid).

In light of the aforementioned, it seems that in Croatia the transition process did not bring about a *tabula rasa* or *discontinuity* with the Communist past in the realm of civil service. Put differently, the collapse of communism and the ‘critical juncture’ (cf. Collier and Collier, 1991) of ‘institutional openness’ that followed in tandem with the conservative actor constellation and the exceptional mode of regime expiration (i.e., warfare) at the moment of regime breakdown did not constitute catalytic forces for enduring institutional changes. Instead, they had the opposite effect: conservatism, institutional resilience and reproduction. The next section provides a detailed account of the state of civil in the aftermath of post-communist transformation (1990-1999).

5.3.2. *The civil service system in post-Communist Croatia*

The 1990 Constitution did make a reference to the state administration; yet, Article 114 was hardly prescriptive. As such, it did not provide any constitutional model for the civil service apart from noting that ‘The organization of state administration is regulated by law’ and that ‘Employees in state administration are appointed on the basis of public competition, unless otherwise specified by law’. Considering the extraordinary circumstances (warfare and economic destabilisation), the creation of a Weberian model of professional and independent administration governed by special laws (cf. Goetz, 2001) was not a priority of the initial reform agenda of nationalists until the very end of 1994. In this respect, communist era laws governing core civil service aspects remained in force until the 1994 State Civil Servants and Employees Act (SCSEA; *Official Gazette*, No. 74/94) was introduced regulating their status for the first time. The SCSEA was introduced

alongside the Salaries of the Civil Servants and Employees in Public Services Act (SCSEPSA, *Official Gazette*, No. 74/94) (Koprić and Marčetić, 2003: 239). At the same time, as noted above, some key Yugoslav legislation survived transition, regulating some other segments of public service such as the status of the local civil servants. Overall, the introduction of the new legislation pertaining Croatian civil service was made in an *ad hoc* and piecemeal fashion and lacked consistency with other related legislation (Ramljak, 2006).

From its inception, the Croatian civil service system lacked integration as several laws regulated specific corps within the civil service (e.g. Government of the Republic of Croatia Act, the Act on Administration, the Customs Service Act, the Defence Act, etc.; cf. SIGMA, 2005b: 5). Reflecting the country's long tradition of career-track employment, appointments in the civil service were, in principle, based on public competition, merit-based and decentralised, with each government body running its own recruitment process. Thus, no standardised and centrally managed human resource policy existed and recruitment was largely subject to political discretion. Robert Blažević (2003: 379) notes that, 'At the time of collective nationalistic madness the basic criteria for entering the civil service was not competence and expertise, but tribal allegiance'. Damir Grubiša (2005: 67) corroborates this line of argument:

'[...] the new people in power resorted to the oldest stratagem in 'cadre-policy': in recruitment of human resources they turned to confidence-men in their immediate surroundings: their comrades-in-arms with whom they fought against the communist nomenclature, their kin, and relatives, people from their villages and, finally, their political allies - clients and cronies'.

Thus, nepotism and family ties were the most important in all segments of the Croatian state and society (Blažević, 2003: 379). Considering the authoritarian nature of the HDZ regime, the civil service was obliged to implement ready-made ideas with outlined solutions. In short, much like socialist times the most important characteristic of the system was party responsiveness as opposed to policy-responsiveness. In a similar fashion, the country's strong pattern of administrative hierarchy survived transition with the lower echelons still being considered with suspicion, as less capable. Moreover, since each administrative body prepared its own recruitment policy according to its 'rulebook' and without any co-ordination with other administrative bodies, basically the same jobs were classified differently in different state administrative bodies. As a result, a fragmentary,

unfair and irrational pay-roll system was in operation with some civil service groups enjoying relatively high salaries (e.g., customs, police, and civil servants at the local level) compared to others with similar duties. That meant, in turn, that the Croatian public administration suffered from staff shortages in very important organisations, such as the Ministry of Finance (MoF), and staff inflation in others, namely the non-civilian sectors, such as the ministries of Defence and Interior (World Bank, 2003). Koprić and Marčetić (2000) estimate that there were 72,421 people in the army and police in 1998, which amounted to 7.20 per cent of the employed working force in the country. The whole public administration employed 243,983 people in the same year, while only 45,659 civil servants and employees were employed in the state administration. In effect, almost one quarter of the country's employed working force (estimated at around 1,005,500 people) was employed in the public sector during the 1990s (ibid). That is why Croatia's public administration is regarded as one of the largest, expensive and insufficient in the world by international organisations (World Bank, 2003: 61).

Regarding former local civil servants, following the 1993 administrative-territorial reforms (see Chapter 7) a large number was automatically transformed into state administrative officers (Koprić and Marčetić, 2003: 238). As noted, their status continued to be regulated by the provisions on the civil servants of the 'taken-over' socialist era Administration Act of 1978. Note however that civil servants and public employees in the offices of the City of Zagreb were considered as state civil servants and employees, whose rights, duties and responsibilities were regulated by special law (Ivanišević, 2003: 27). In fact, compared to the other local counterparts these servants and employees were far less autonomous *vis-a-vis* the HDZ-controlled state.

In the case of separation between the management positions and civil service positions, certain confusion can be reported. Although entrusted to execute state administration activities, the System of State Administration Act and the Government of the Republic of Croatia Act indicated that all senior ministerial personnel (e.g., deputy ministers, assistant ministers, secretaries, state secretaries etc.) were officials and therefore were to be directly appointed and dismissed by the government or the president, on the proposal of the prime minister. Politicisation was also evident in decisions related to promotion, salary rise, or promotion to a leading position (Koprić and Marčetić, 2000). At the same time,

privatisation of former state owned industries gave a strong impetus for the introduction of neoliberal economic ideas, as well as the doctrine of new public management in the public sector (Koprić, 2009: 2, 25). Combined with the corrupt way in which the privatisation process was carried out by the ruling HDZ and the 'tycoonisation' syndrome of Croatia's economy (Bartlett, 2003: 110-14), the managerial approach (appointment of managers from the private sector, banks, and certain large private companies in higher public administration positions) led in effect to a condition that Hellman, Jones and Kaufmann (2000) have called 'state capture'. In this context, certain public bodies headed by former private-sector managers worked as protection shields of specific private organisations and their patrons who were closely connected to, or were even members of, the governing HDZ. The inherited communist trend of protectionism, political and business corruption was thus further strengthened. At the same time, reform-oriented actors such as a robust civil society and academic community could not play a significant role in promoting PAR given the regime's authoritarian nature that rendered their influence or input in preparing public policies 'too weak and accidental' (Koprić, 2009: 24).

Turning to training, the Institute of Public Administration ceased operation in the early 1990s (World Bank, 2003: 70). Accordingly, Croatian state-builders did not establish a central education institution; rather, the law left this responsibility to the respective government bodies (SIGMA, 2005b: 16). Besides, the in-service training and re-training schemes for the new or already employed civil servants were not institutionally organised. Such training took place in courses whose quality and standards were outside control (Koprić and Marčetić, 2003: 243). In reality, apart from the evident lack of political will, the initiatives for establishing a high-quality university education curriculum for public administration had been (and still remain) 'suppressed, ignored, and actively undermined [...] [by] conservative groups within the academic community' (Koprić, 2009: 7). Lastly, amidst emergency conditions the Croatian public administration eschewed the important step towards transparency as old norms of secrecy and protection of official secrets (including even non-classified information) were retained and augmented by the new authoritarian establishment through the 1996 Law on Protection of the Secrecy of Data¹⁶.

¹⁶ This law created broad rules for the protection of five categories of information: national secrets, military secrets, official secrets, business secrets, and professional secrets (SIGMA, 2007: 28).

Overall, the beginning of transition in early 1990 posed significant constraints on Croatian state-builders. The move from a leftist (1945-1989) to a rightist (1990-1999) authoritarian regime took place at the same time as the *reproduction* of the old administrative and political elite and authoritarian cultural predispositions. This was paralleled by the reproduction of twisted forms of the old system in the realm of political/policy structures (direct political intervention, over-politicised policy) and economic relations (resurrection and development of intensive client networks, tycoon economics). So, the extent to which de-institutionalisation of old paradigms occurred (introduction of the 1994 SCSEA and SCSEPSA) this was often concealed and shadowed by the new institutionalised myths: nation-state and ‘Homeland War’.

5.4. EU administrative conditionality

While the EU has competences to harmonise certain policies, it lacks such authority when it comes to public administration as the organisation of the member state’s political institutions is a matter of these states alone (Verheijen, 2002: 246). Yet, this practice changed to an extent in the context of 2004/7 EU enlargements. Since the pre-existing pattern of administrative and judicial (see next chapter) integration in former communist European states clashed with West European notions of a modern Weberian-based bureaucracy and administrative legality (cf. Goetz, 2001), it is in this context that the concept of a single *European Administrative Space* (EAS) was ‘invented, first used and given the connotation of approximation toward a universal EU model’ (Heidbreder, 2009: 6, cf. Fournier, 1998; Olsen, 2003). Designed particularly for the CEECs, the decisions of the 1995 Madrid European Council introduced *administrative capacity* as a ‘criterion in its own right’ (Dimitrova, 2002). The White Paper adopted in 1995 cautioned that ‘the main challenge for the CEECs lies not in the approximation of their legal texts, but in adapting their administrative machinery [...] to make the legislation work’ (ibid: 175; citing White Paper 1995). As such, whilst sectoral capacity was linked to particular parts of the *acquis*, horizontal capacity emerged as ‘synonymous with administrative reforms’ (ibid: 80).

Striving to operationalise the Union’s nascent ‘bureaucratic criterion’, the European Commission tried through its regular monitoring reports to develop measurable benchmarks of shared thresholds against which candidate countries’ administrative capacities could be assessed. Yet, in view of the EU’s lack of ‘administrative *acquis*’ and

weak links with the pre-accession conditions, internal cooperation within the European Commission was remarkably poor (Heidbreder, 2009: 16). Accordingly, instead of developing binding EU standards in national administrative capacities, the EU relied on external sources, namely the SIGMA unit in OECD. As for the civil service system, the SIGMA/EU thresholds insist on general rules (rather than specific advice on how to proceed with required reforms). These include the adoption of civil service laws guaranteeing civil servants' legality, responsibility and accountability, impartiality and integrity, efficiency, professionalism and stability (a career-track system), a unified payroll framework, open and competitive recruitment, a comprehensive training system, a 'champion of reform' as well as a comprehensive Public Administration Reform Strategy (SIGMA, 1999: 23-24; cf. Verheijen, 2002: 250). Yet, as Heidbreder notes (2009: 16; italics in the original), 'although their content was defined for external application and had *de facto* binding effect on candidate states, the EAS remains of metaphorical status because it has not been converted into legally binding general horizontal standards that grant coercive supranational rule over member states'. Short of *de jure* binding effect on EU space, these fundamental shared norms therefore represented '*blank concepts*' pending concretisation (ibid: 13; italics in the original).

In developing its relations with the war-torn region of the 'Western Balkans', the EU has subsequently upgraded the 'administrative capacity' into a 'Good Governance' requirement. This change partly reflecting lessons learned from the eastward enlargement rounds, but also responded to the perceived limited statehood of the 'Western Balkans' countries (Börzel, 2009: 18). Put simply, in order to stabilise the war-prone 'Western Balkans' (including Croatia), the objective of promoting 'effective government' became a higher priority than in the CEE countries, where transition was relatively smooth and resulted in overall stable institutions (Börzel, 2009: 18; Elbasani, 2009). Therefore, the nascent EU requirement of 'Good Governance' promised to strengthen the rule of law, create confidence in state institutions, foster a business-friendly climate, generate private investment, and eventually, bring the countries of the Western Balkans closer to EU membership. In light of this, one would expect *de facto* stronger promotion and monitoring of SIGMA/EU civil service thresholds in Croatia even in the absence of a *de jure* 'administrative *acquis*'.

5.5. The Association phase, 2000-2005

5.5.1. The Civil Servants and Employees Act: A lame-duck reform attempt

Most observers of the Croatian transition agree that the uneven development of the privatisation process in Croatia under the HDZ regime led to the creation of a ‘grey economy’, raised the barriers to business, discouraged foreign investors, exaggerated political corruption and thus hindered economic development and growth (World Bank, 2001a; Bartlett, 2003, 2007). Notably, with a few exceptions, the new ‘tycoons’ stripped the assets of many Croatian industries rather than reinvesting for long-run growth (Bartlett, 2007: 204). Ultimately, the regime’s disastrous economic mismanagement and the inefficiency of ‘tycoon capitalism’ began to have damaging effects on the economy. Soon company debts began to accumulate, and when they became unable to repay the commercial loans the crisis spilled over into the banking sector, which in turn signalled the onset of recession and the eventual fall of the HDZ at the end of the decade (Bartlett, 2003: 97). It is telling that GDP recorded a negative growth rate in 1999: - 0.9 per cent (European Commission, 2004: 43). It is worth noting that the general government debt increased rapidly from 31.6 per cent of GDP in 1997 to 51.6 per cent of GDP in 2001, in part as a result of the rapid enlargement of the public sector (Bartlett, 2003: 122-24). At the same time, Croatia’s public sector spending on wages and salaries, at 11.9 per cent of the GDP, was excessive compared to the average 6 per cent of the GDP for other transition countries (World Bank, 2003: 60).

Considering thus the country’s dire economic situation, the issue of state restructuring was high in the political agenda during the immediate post-nationalist period (2000-2001). The incoming first Račan cabinet (2000-2002) was committed to a challenging reform plan with fiscal adjustment being one of its cornerstones. The government sought to curb past expansion, design and apply competence criteria (merit system) in civil service employment, and to introduce changes in the civil service pay and promotion systems (World Bank, 2001c: 4). To that end, the government mandated the Strategies Office to elaborate guidelines for PAR and assigned overall PAR responsibility to the Ministry of Justice Administration and Local Self Government (MoJALSG) which, significantly, was overloaded with justice (see Chapter 6) and decentralisation (see Chapter 7) reforms. At

the same time, it sought financial and technical assistance from IFIs such as the World Bank and the IMF.

Accordingly, with the support of the IMF, the government designed and tried to implement as early as 2001 a medium-term reform program (2001-03) aimed at re-balancing monetary and fiscal policy and revitalising structural reforms with exchange rate stability (IMF, 2001). In complying with IMF's first *Stand-By-Arrangement* (signed in March 2001) and the World Bank's *Structural Adjustment Loan* (SAL) 'coordinating' conditionalities, the government was required to undertake some very painful structural measures. During the preparatory phase of SAA (2000-2001), structural remedies such as curtailing the country's outstanding external debt, increasing labour flexibility, enhancing fiscal consolidation and improving the competitiveness of the economy, were also backed up by European Commission's call for Croatian policy-makers to cooperate with IFIs in the field of structural reforms (European Commission, 2000: 9). In fact, compliance with the IFIs' conditionalities had 'spill-over' effects for the Croatian civil service system since external advice called for radical staff reductions and salary ceilings in some over-crowded segments of the public sector, most notably the non-civilian sector¹⁷ (World Bank, 2003: 60).

Eventually, new legal frameworks pertaining to civil servants and public employees, and to public salaries were being developed. The administrative body in charge of the drafting processes was the (seriously understaffed) Civil Service Department in the MoJALSG¹⁸. The new Civil Servants and Employees Act (CSEA; *Official Gazette*, No. 27/01) was adopted in March 2001 (SIGMA, 2005b: 5). Contrary to the SCSEA of 1994, the new CSEA aimed to change the former classification system for personnel (regardless of their position in the state administration) and classify them according to job complexity, to unify

¹⁷ In its first agreement with the IMF, the Croatian government committed itself to a nominal 10 per cent reduction in the wage bill and cuts of 10,000 employees in the inflated ministries of Defence and Interior. However, the cuts agreed to for 2001 were not carried out as planned; rather staffing levels in Defence dropped by 5.3 per cent between 2000 and 2001 and by 6.6 per cent in Interior (World Bank, 2003: 60-61).

¹⁸ Between 2000 and 2003 the MoJALSG included three Directorates dealing with general public administration affairs: Directorate of State Administrative System and Civil Servants Affairs (19 employees in total), Directorate for General Administrative Affairs, Administrative Inspection and Civil Status (9 employees in total) as well as Directorate for Local Self-government (8 employees in total).

the various existing remuneration systems for civil servants and employees, and define the salary coefficients so that they reflect job complexity of each civil servant (Koprić and Marčetić, 2003: 241; Ramljak, 2006: 3-4). The Public Service Wage Act (PSWA; *Official Gazette*, No. 27/01), regulating the wage principles for employees working in the public service but who were not civil servants in the sense of the CSEA was passed simultaneously (SIGMA, 2005b: 14). Finally, a special Act on Local Civil Servants was also drafted during this period (2000-2003). However, it failed to gain the support of the Croatian Parliament (Koprić and Marčetić, 2003: 241).

The scope of the new CSEA was rather large, not least because, apart from public employees, it included civil servants and state employees beyond the core civil service (SIGMA, 2005b: 6). Articles 62-78 of the CSEA offered a rather clear (yet detailed) classification of civil service positions, defining five categories (ibid: 10). As in times past, staff in education, health, the police, customs service, and other specialised sectors, as well as local authorities¹⁹, were excluded from the scope of the CSEA (ibid: 5). In addition, article 2 of the CSEA permitted the regulation of the 'rights, obligations and responsibilities' of civil servants and employees by special statutes and regulations. In practice, instead of regulating only the specific aspects of a certain corps of civil servants, (e.g. customs service, police, etc.), it tended to impact on issues that did not really call for differentiation such as classification, basic salaries and career development (ibid: 6). As the SIGMA 'Public Service and the Administrative Framework Assessment' report of June 2005 stated: 'This regulatory practice, not unique to Croatia, has led to a non-unified civil service, which had in turn created unnecessary problems, not only when restructuring the administration but also in day-to-day human resources management' (ibid: 6). Significantly, the distinction between civil servants and public employees was made according to level of education (rather than according to functions), reflecting the persistence of old (Yugoslav) traditions. Criteria such as individual appraisal ratings and seniority continued to define internal horizontal and vertical promotion procedures (ibid: 10). Such anachronistic practices in recruitment and promotion policies circumvented professionalism as they enabled in practice the appointment of a candidate who was not the

¹⁹ However, the new Local and Regional Self-Government Act of 2001 stipulated in its transitional provisions that the CSEA is to apply to relevant staff in local self-governments pending the enactment of a special law.

best person available, ‘provided that the formal legal conditions in the procedure have been met’ (ibid: 9). At the same time, the CSEA stated that all civil service and employees positions were ‘execution-oriented positions’, even those with high-level educational standards and qualification (ibid: 11). In this respect, decision-making remained highly centralised. Regarding the appointment of civil servants, recruitment continued to be decentralised, with political personnel (the minister at the ministerial level or the head of the recruiting administrative body at other levels) retaining their appointing authority. Thus, patronage-motivated appointments continued to be made at too low a level in the hierarchy (ibid: 10). In the case of senior managerial positions, as in the 1990s, these positions continued to be dealt with in scattered legislation (see above). From a reading of the State Administration Act, the Government Act and the CSEA, one can infer that there was in effect ‘no professional, permanent senior civil service in Croatia, as all management positions are subject to direct appointment by the government’ (ibid: 11). Further, while the catalogue of rights and duties was mainly in line with common European standards, neither the Constitution (Article 116) nor the CSEA provided a clear statement of the loyalty and political impartiality of civil servants and employees (ibid: 6, 12). Finally, though two articles (Arts. 91 and 92) in the CSEA were devoted to training, the government abstained from designing a systematic and centralised policy in this area (except for European integration). Instead, the law left responsibility for this function to the respective government bodies (ibid: 16).

5.5.2. Civil service reform re-loaded

The SAA signed between Croatia and the EU in October 2001 identified PAR as one of its cornerstones. In helping the country meet the demanding objectives of association, the SAA/IA brought with them a wider scope of EU financial and technical aid. The OBNOVA 2000 project *Support to the Croatian Government in designing a comprehensive public administration reform programme and training of civil servants* was the first project in the field of PAR. It started in January 2001 and was completed in May 2001 after the 2000/1 CSEA and wage legislation were designed and adopted. As in the eastward enlargement round, in the absence of an ‘administrative *acquis*’, the European Commission heavily relied on the OECD. Thus, cooperation with SIGMA provided the tool for the assessment and support of PAR in Croatia as of September 2001. Significantly,

in another learning curve, the multiplicity of donors active in Croatia and their planned interventions were taken into account by the European Commission so as to ensure potential synergy whilst consolidating the CARDS *Country Strategy Paper for Croatia 2002-2006*, as well as the *Multi-annual Indicative Programme* (MIP) attached to the strategy. In particular, the European Commission established within its Delegation in Zagreb a mechanism for coordination and exchange of information with the member states' mission in Croatia (European Commission, 2001: 31).

In terms of other donors, the response strategy was complementary to the World Bank's country assistance strategy (CAS), particularly given the World Bank's increasing awareness of the European integration objectives of the Croatian government when conceiving sector reform programmes, including the SAL (World Bank, 2004). There is evidence that as early as 2001 the EU strived to 'co-ordinate' its conditional incentives with that of the World Bank and other member-states (e.g., Netherlands, UK, and Sweden) and cooperate closely with the OECD/SIGMA unit in a clear attempt to avoid a 'dual tongue'. It also reinforced its leverage in issue-areas with no *acquis*-related competence, namely PAR.

Meanwhile, it was becoming more and more evident that Croatia's new civil service regime did not represent a major departure from the previous one as it did not succeed in unifying either the civil service system or its various remuneration schemes (Omejec, 2008: 29; SIGMA, 2005b). It also failed to clarify the boundaries between political appointees and ordinary civil servants. The removal of previously senior civil servants positions (Secretaries-General of Ministries and Assistant Ministers) from the civil service system, for example, (in order to reduce the wage bill as mandated by the IFIs) meant in effect that professional (merit) criteria (if any) for the appointment of staff to these posts was dropped (Rabrenović and Verheijen, 2005: 6). At the same time, the Račan governments failed to pass crucial secondary legislation for the implementation of the CSEA. In this sense, the CSEA remained a dead letter of intention.

Many factors account for the extremely weak reform capacity of PM Račan's cabinets. First, because of the highly politicised atmosphere due to the ICTY issue between 2000 and 2003, the Croatian government lacked integrated political leadership (see Chapter 4). Second, the Croatian state administration lacked adequate administrative power due to

insufficient staffing of the competent ministry (i.e., MoJALSG), which impeded horizontal supervision and compliance with the new civil service regime (SIGMA, 2004: 26). Third, a significant deterioration in the material status of both top level and lower level civil servants following the government's stringent wage cuts²⁰ of 2000 and 2001 aroused discontent among Croatian civil servants who, as a result, either left the administration or lost any motivation to perform their duties (Rabrenović and Verheijen, 2005). Thus, the country's administrative and professional capacity suffered a severe decline, with civil servants exhibiting thereafter (passive) resistance to implementing the new civil service legislation (World Bank, 2003). Finally, as noted in Chapter 4, important segments of the public sector remained unreformed (especially in policy, tax administration, the customs office, the police, the army and judiciary) throughout Račan's premiership - an unfavourable condition that in turn weakened the government's strength to depoliticise and modernise the public sector. Not accidentally, the highly ambitious 2001 strategic guidelines for PAR were placed in limbo.

Taking notice of Croatia's weak 'administrative capacity' in the area of PAR, the SIGMA, EU CARDS and World Bank technical advice teams operating in the country at the time would thereafter pioneer *in unity* the need for a 'champion of reform' (i.e., an independent organisational unit responsible for PAR) and a more strategic attitude to PAR outlining specific solutions (World Bank, 2001a, 2003; SIGMA, 2004). Such co-ordinated action was further backed by the European Commission's first SAP annual report of March 2002 which, although it used a rather nebulous wording, still indicated that the, 'implementation of adopted legislation remains a major challenge and the administration needs to look at its own capacity to implement the reforms and address the deficits it finds' (European Commission, 2002a: 19). Partly due to the evident failure of the 2001 civil service reforms and partly because of the post-2000 increasing interest (and presence) of the EU on Croatia's domestic reform agenda, the second Račan cabinet (2002-2003) decided to re-launch the stalled PAR and re-draft the 2001 CSEA immediately to include merit principles and reduce politicisation (Rabrenović and Verheijen, 2005).

²⁰ The cut in top level civil service salaries of 20 per cent and the introduction of a 5 per cent rollback of the base wage in the public sector in 2000 contributed to halting the previous upward trend of the wage bill. Further reductions in public wages were introduced in 2001 and public enterprise remained frozen (World Bank, 2001c: 4). These positive developments notwithstanding, trade unions reported that, with the civil service reform of 2000/1, staff with secondary education lost about 20 per cent to 40 per cent of their salary (cited in SIGMA, 2007: 23).

Consequently, a Task Force on PAR, with the objective of preparing a PAR policy paper as the basis of a comprehensive action plan, was established within the MEI in November 2002. At the same time, the government aimed at compensating the notorious inadequacies of MoJALSG, and as such respond to mushrooming external calls for a ‘champion of reform’ by establishing an autonomous State Directorate for PAR and Local Self-Government reforms. As for the civil service, a special EU CARDS project was initiated in November 2002 in order to assist the MoJALSG in its effort to review the 2001 CSEA and by-laws and to build sufficient administrative capacities (SIGMA, 2004). Through the CARDS 2001 project *Public Administration Reform-Support to the Reform of the Civil Service* Croatian state elites would ‘learn’ what would be needed in order to ‘Europeanise’ and adjust the existing legislation and administrative structures to general European thresholds (i.e., the EU/SIGMA civil service baselines): ‘A unified, efficient, transparent and modern civil service system, which is capable of meeting EU administrative standards’. Thus, the CARDS 2001 project was to be the start of an intensive effort to improve and complement the existing insufficient civil service, training and human resource management legislative frameworks using SIGMA’s civil service baselines as ‘measurable benchmarks’ against which the ‘Europeanisation’ of Croatia’s civil service system could be assessed (interview M. S.; British Council).

5.5.3. *Countervailing resistance, 2004-2005*

Neither the new PAR report delivered to PM Račan in July 2003 nor the legal revisions necessary for the establishment of the State Directorate were adopted by the outgoing Račan cabinet (Ramljak, 2006: 3). At the same time, the new civil service regime proved a dead letter under the growing bureaucratic resistance and the government’s lack of integrated political leadership as well as weak administrative capacity. Thus, by the end of 2003 Croatian administration still failed to meet common European standards.

The incoming minority government of PM Sanader pledged loyalty to all major strategic goals of its predecessor, including PAR. Nonetheless, it shelved the 2003 feasibility report on PAR, so that the entire PAR strategy once again was not adopted (Koprić, 2009). This notwithstanding, among PM Sander’s first decisions were the rationalisation of the state apparatus through, *inter alia*, a considerable reduction of ministerial seats (from nineteen

to fifteen). Arguably, such developments were not taken independently from foreign advice or pressures.

In particular, in light of the country's enduring fiscal imbalances the outgoing second Račan government signed a second SBA with the IMF in 2003. This agreement foresaw a range of quarterly limits on fiscal deficits, the stock of central government arrears, and limits on governmental debt (IMF, 2003). This agreement had a binding impact on the incoming Sanader government which had to comply with these terms. Fiscal sustainability was once again the major engine propelling PAR. Meanwhile, the European Commission's second SAP report (2003: 30), though far from being again concrete, cautioned that the government '[...] needs to pay special attention to strengthening its public administration with a view to ensure that the relevant ministries and other public authorities are in a position to properly implement the numerous legislative reforms to which Croatia has committed itself'. The World Bank and SIGMA added to the momentum for organisational changes in their reports which stressed that 'Whether or not public administration reform is accorded high priority status, it must be recognised that steady if not accelerated progress must be made in modernizing the civil service as chronic weaknesses in this area undercut the Government's ability to deliver broad reforms' (World Bank, 2003: 71) and, 'The reform process as such lacks focus and, more importantly, a champion to move it forward' (SIGMA, 2004: 2).

As a consequence, the Sanader government established a special organisation in charge of the PAR processes, the Central State Office for Administration (CSOA). Accordingly, the establishment of CSOA and the Training Centre for Civil Servants within it were welcomed both by the OECD/SIGMA and the European Commission as an important first step towards administrative modernisation based on European standards (European Commission, 2004: 16; SIGMA, 2005b). Significantly, the CSOA was headed by a State Secretary who was directly accountable to the PM. Thus, it seemed that for the first time the issue of PAR enjoyed the full backing of the country's chief of the executive, even though the organisation in charge lacked ministerial footing. Croatia finally seemed to have its reform 'champion' (i.e., CSOA) fully dedicated to PAR.

Turning to civil service reform, in its 2004 Opinion (which itself echoed considerably the earlier SIGMA assessments of the country) this time the European Commission took on explicitly the civil service issue:

‘The Law on Civil Servants and Public Employees of 2001 provides a legal basis for the status of civil servants and other public employees. The Law does *not* make any distinction between state officials (political appointees) and civil servants, thereby leaving unresolved issues such as status, role and obligations of political personnel in the civil service, tenure of political appointees within the civil service, modalities/procedures for the conversion of the status of political appointees to that of civil servants. The current number of rulebooks (i.e. internal documents for each Ministry defining job descriptions, number of staff, etc.) and inconsistencies between them, create the conditions for a multitude of civil service management standards.

[And],

‘The Law suffers from further deficiencies, especially with regard to a system of promotions, mobility, separation from service and disciplinary measures. The rules governing recruitment and selection of candidates could also be improved’ (European Commission, 2004:15; emphasis added).

Based on the analysis made in the Opinion, the 13 September 2004 Council Decision on the principles, priorities and conditions contained in the European Partnership with Croatia indicated for the first time the main priorities for Croatia’s preparations for further integration in the EU: ‘Take all initial steps to ensure the use of transparent procedures for recruitment and promotion and to improve human resource management in all bodies of the public administration in order to ensure accountability, openness and transparency of the public service’.

Considering that the existing legislation had been distorted to such extent by either specific regulations applying to individual institutions or lack of overall implementing by-laws (SIGMA, 2005b), the moderate ‘misfit’ between Croatia’s civil service system and the respective SIGMA/EU standards would be ‘used’ by foreign experts and EU/World Bank officials in Zagreb to persuade governing elites that the drafting (rather than a mere revision of the CSEA) of a new web of laws and by-laws was in order (World Bank, 2004: 21).

The response of the Sanader-led government was rather ambiguous. On the one hand, the government did not interrupt the ongoing work of the CARDS 2001 project team (as it had previously with the Task Force PAR document), but, instead, it set-up a six-member committee for harmonisation of the civil service with European standards in March 2004. Moreover, in July 2004 the government adopted a policy document entitled *EU Pre-Accession Assistance Needs of the Republic of Croatia for 2004-2006*. This document contained an analysis of the current state across sectors and indicated Croatia's priorities in terms of foreign assistance, including co-operation with the World Bank. In the field of PAR, the document defined a broad number of objectives including the adoption of a *State Administration Reform Strategy*. At the same time, the government also turned to the World Bank for financial and technical assistance which contracted a series of Programmatic Adjustment Loans (PAL, I, II and III) aimed at 'Good Governance' reforms. Pillar II within PAL dealt with the issue of 'State Administration Reform', part of which was also the drafting of the new *Civil Service Act* (CSA; World Bank, 2004: 22). Assistance was also envisaged for the revision and implementation of the Wage Act and introduction of a new job classification system under the PAL II and PAL III programmes. It seemed therefore that the new HDZ-led government was reform-oriented and that PM Sanader aimed at breaking with his party's past clientelistic and patronage-motivated practices.

But on the other hand, in light of the country's bid for European integration and the demanding obligations associated with such a process, the Sanader-led government mandated amendments to the existing CSEA. The aim was to allow easier and faster recruitment and appointment procedures in the state administration and better promotion opportunities for young staff (Ramljak, 2006: 4). For the Trade Union of State and Local Government Employees (SDLSN) the draft amendments concealed the government's intention to undertake yet another wave of politically motivated appointments and dismissals (ibid). Accordingly, the SDLSN criticised the government for its decision to submit the draft amendments to the CSEA to the legislative process without having first consulted the social partners. Simultaneously, the SDLSN pointed out that the said amendments were pointless considering that a new comprehensive CSA was being prepared at the time with the technical support of an EU CARDS project team. Eventually,

although the draft amendments to the CSEA passed the first reading in the Croatian Parliament, these were never sent to the plenary (ibid).

5.5.4. The new Civil Service Act: Compliance under co-ordinated foreign conditionality

Contrary to the draft amendments to the CSEA of 2001, the final draft of the new CSA was largely in line with SIGMA's baseline principles, including de-politicisation of all senior management posts (Article 74) and merit-based recruitment (Article 7) (SIGMA, 2005b). In this respect, civil service trade unions were broadly supportive of the new legislation. After passing all the necessary policy coordination mechanisms, the draft CSA was submitted in governmental procedure in December 2004. Yet, given the lack of true commitment for wholesale de-politicisation by the HDZ and its parliamentary partners, the adoption of the very ambitious CSA was subject to last minute reversals. Whereas agreement was reached on the need to move Assistant Minister and Secretary-General posts to CSA, a number of other key posts, most notably all heads of Department at the Office of Government (OG) and the Secretary General and Deputy Secretary General of the OG, failed to gain coalition partners' agreement. Accordingly, while the government decided to adopt the law, it did so without including the controversial Article 74 (Rabrenović and Verheijen, 2005: 11). The 'circumscribed' draft CSA was eventually submitted to the parliament where it passed through the first reading procedure (SIGMA, 2006: 1).

Partly due to the characteristic polarisation of Croatian politics and partly due to the country's coalition dynamics, the government's defective stance could be explained on the grounds of a general political culture that privileges the submission of the public administration to the political elite. Simply, the 'adaptation costs' (cf. Schimmelfennig and Sedelmeier, 2005b) were too high for all coalition partners and particularly the ruling HDZ which rested on one seat majority. In effect, Croatian politicians faced the danger of losing their influence in almost all senior managerial posts except for that of State Secretaries. It is hardly surprising then that PM Sanader was confronted with significant pressure from within his party and the coalition to maintain the status quo.

Despite being broadly positive about the new CSA, some civil service trade unions nonetheless expressed a certain amount of opposition. They saw the draft CSA as a

government attempt to curtail much of their entrenched privileges since the new CSA was ‘very framework in content’ meaning that sensitive issues such as job classification and enumeration systems were to be regulated through ‘arbitrary’ governmental decisions (interview with Pleša Boris- president of the Trade Union of State and Local Government Employees of Croatia). In addition, some parliamentarians also complained that the new ‘foreign-directed’ rules (short, framework and parsimonious legislation enumerating principles rather than regulating in detail rights, obligations and responsibilities of civil servants) ran counter to Croatia’s tradition of detailed laws and hence implied the parliament’s further weakening *vis-a-vis* the executive (Ramljak, 2006: 5-6). Put simply, allowing the government to govern by decree was seen as a severe constraint on the parliament’s and trade union’s ability to exercise control over the civil service. The process of adopting the new CSA was thus stalled and delayed for some eight months. The law was finally adopted in July 2005, including, crucially, the controversial Article 74. But, what made the government and its parliamentary allies radically reverse their firm stance on Article 74?

The most plausible explanation seems to be ‘coordinated’ foreign conditionality (cf. Orenstein, 2008). As already stated, the government was negotiating its first PAL with the World Bank at this time. One of the basic objectives of PAL I (referred to as Pillar II) was to strengthen Croatia’s governance capacities, including helping the government enact the new CSA. Significantly, PAL I embodied close co-operation and good coordination with the IMF, the European Commission, the OECD/SIGMA, as well as other donors (World Bank, 2005: 5). The donors were alarmed by the government’s defective stance on Article 74 (interview with M-S.S, World Bank). Not only was the whole process of de-politicisation and professionalisation of the Croatian civil service system at risk, but, equally importantly, the credibility of IOs was at stake. As one official in the EU Delegation in Zagreb put it, ‘the EU institutions expect beneficiary countries to respect their commitments and deliver the promised results for otherwise the EU’s credibility and accountability is at serious risk given that the money of European taxpayers is at stake’ (interview with K-F.M; EU Delegation in Zagreb). As a result, a series of informal meetings were held between the donors at the local British Council headquarters (interview with S.M.; British Council).

Interviews reveal, however, that it was the World Bank (and not the European Commission) that took the lead in co-ordinating the donors' strategy *vis-a-vis* the government's policy on Article 74. In effect, two letters to the government (one unilateral and one jointly with the European Commission) were the direct consequence of the said meetings (interview with M-S.S.; World Bank; S.M. British Council). In these letters, the World Bank made it clear to the government that 'PAL I was put into question should the Government insist on not widening the number of 'depoliticised' posts beyond the Assistant Ministers and Secretaries-General' (interview M-S.S; World Bank). Thus, the foreign conditionality was strong, direct and to an extent 'coordinated' with the EU.

One should be very careful, however, not to overestimate the EU's role in the 2005 civil service reform. Indeed, one could expect a more pro-active role by the EU on PAR, especially when taking into account its increased interest in 'administrative capacity' issues, including a strong focus on 'institution-building' in the case of the weak and dysfunctional 'Western Balkan' states (cf. Börzel, 2009). In Croatia in particular, the EU 'abstained' from the discussion on the CSA, although the issues at stake regarded a core aspect of EU membership criteria (interview with M-S.S, World Bank; Rabrenović and Verheijen, 2005). At the same time, throughout this period, neither the deficiencies identified in the SAP/Opinion reports, nor the lack of capacity to ensure implementation of the SAA prevented the EU from advancing its relations with Croatia and opening accession negotiations in October 2005. Although the opening of negotiations was delayed for some months, that was related to ICTY controversy. In short, EU administrative conditionality was present as evidenced in the coordinated action with the World Bank, but it was vaguely deployed (cf. Grabbe, 2006). It seems, therefore, that domestic elites complied mainly under the World Bank's more credible PAL-related conditionality since the medium-term EU reward (opening of negotiations) was not consistently associated with PAR at that point of time.

While there was little emphasis on the CSA issue from the EU, EU membership ambitions were used to surpass resistance and motivate civil service reforms internally. As parliamentary debate reveals, the government representative in the *Sabor* relied largely on SIGMA/EU recommendations and pressures for shorter, framework laws. His basic contention was that the EU CARDS expert team strongly 'advocated' implementing by-

laws, as these are easily amendable whereas laws require an immense and chronic parliamentary process that hamper quick decision-making. This stance left the government no other choice but to accept the draft CSA as part of Croatia's obligations to the Union (Ramljak, 2006: 8). In this sense, 'Europeanisation' was also constructed from the 'bottom-up' (cf. Dyson and Goetz, 2003) as an external constraint on national autonomy. Eventually, the new CSA (*Official Gazette*, No. 92/05) was adopted by the parliament on 27 July 2005, including the controversial Article 74. After all, as one official in World Bank put it 'the government could not jeopardise World Bank monies and its credibility as a partner committed to reforms' (interview with M-S.S; World Bank).

Overall, the adoption of the new CSA, the corresponding inclusion of Article 74, the establishment of the CSOA and the Civil Service Training Centre represented a considerable achievement on the part of the international community (including the EU), given the strong domestic resilience and inertia. Nonetheless, while the new CSA has helped push the broad parameters of administrative development towards a Weberian-like model (cf. Goetz, 2001) by including merit and open, competitive recruitment principles it has so far failed to lead to 'deep Europeanisation' (cf. Goetz, 2005) in the Croatian civil service system. Indeed, as will be shown in more detail in the next section, between 2006 and 2009 only reluctant steps were taken by the Sanader governments in implementing the new CSA. In fact, the limited progress made under PM Sanader tended to be in a piecemeal manner rather than as part of an overall and comprehensive PAR programme. This is at least in part because of the inconsistent association between assessments of reform and the conferral of rewards from the EU side.

5.6. The Accession phase, 2005-2010

5.6.1. Domestic compliance: Bounded institutional development and shallow Europeanisation

Since 1 January 2006, the Croatian civil service has been regulated by the new CSA, though the previous law (i.e., the CSEA of 2001) still remains valid with regard to salaries and other benefits until new salary legislation is adopted. In July 2008, the long-awaited Civil Service Employees in Local and Regional Self-Governments Act was adopted by the

parliament. In light of European principles of civil service, the new CSA has brought about certain crucial improvements, though ‘continuity’ still informs certain other aspects of the Croatian civil service regime.

Regarding improvements, contrary to the previous law, the CSA specifies clearly that public employees in the state administration are regulated by general labour law (SIGMA, 2006: 8). Furthermore, the distinction between civil servants and employees is no longer made according to the level of education, but according to functions (ibid). Significantly, article 74/3 in the CSA introduces the institution of a professional and merit-based managerial civil service by including the posts of managerial civil servants, senior civil servants, and junior civil servants (ibid: 9). This has been a positive development, considering that until 2005 all managerial posts were regulated outside the existing CSEA and were filled through direct political appointments. Concerning classification, article 74 specifies that civil service posts are classified by common standards across all state bodies. To this end, the Regulation on the Classification of Civil Service Jobs was adopted (after a series of delays) in 2007 and amended in 2008, and is ‘generally in line with good practice’ (SIGMA, 2008: 11). Unlike the CSEA, the new CSA introduces the principles of impartiality (Art. 6), equal treatment and the obligation of superiors not to discriminate because of political views (Art. 11) (ibid: 11-12). As regards training, the CSA states that the continuous improvement of professional skills through in-house training is a requirement for all civil servants (ibid: 14). As noted above, a Training Centre was established within the CSOA in June 2005, and the necessary training strategy and government decrees have been adopted²¹. Finally, regarding co-ordination and management of the civil service, article 38 of the CSA specifies that the CSOA is the main service in charge of monitoring and implementing the CSA (ibid: 15-16).

Turning to ‘continuity’, a number of old regulations, stipulations and practices have proved ‘sticky’ (cf. Pierson, 2004) following the enactment of the new CSA. To begin with, the Croatian Constitution still devotes one short and general article to the state administration, state officials and state employees, abstaining from prescribing a special civil service model. Further, the definition of the scope of the civil service has remained considerably

²¹ In 2007 the centre delivered more than 60 programmes (254 training modules) attended by 3675 civil servants (SIGMA, 2008: 14).

clear and narrow as, similarly to the CSEA of 2001, the scope of the CSA is largely restricted to officials who exercise state authority. By contrast, employees in the wider public sector – for example, in the police, foreign affairs, and the armed forces – are subject to separate legislation (SIGMA, 2006: 8). In December 2007, the entire public sector staff (funded from state budgets) numbered about 190,000, excluding the armed forces²². Of these, about 90,000 form part of the core civil service and are therefore covered by the CSA and supplementary special acts (SIGMA, 2008: 8). At the same time, the scope of the CSA of 2005 is subject to ambiguities as, much as in times past, it distinguishes civil servants and state employees who are within the scope of the civil service law but otherwise subject to ordinary labour law contracts (ibid: 3). Much like times past, formal qualifications play a predominant role in recruitment and promotion (SIGMA, 2006: 3). Perhaps most significantly, the CSA, like its predecessor, reiterates that ‘rights, obligations and responsibilities of civil servants and employees shall be governed by a law and pertaining regulations’. According to SIGMA reports, this stipulation works as a hurdle to the unification of the fragmentary Croatian civil service system as it ‘will unfortunately continue to foster a proliferation of special statutes and regulations’ (SIGMA, 2008: 9) of certain groups of civil servants (e.g., the police).

Again, reflecting enduring past practices, recruitment and appointment remain a decentralised process. Individual ministries and state organisations remain in *de facto* control, despite the new legal provisions which clearly define the CSOA as the central authority in charge (Article 38; SIGMA, 2008). In effect, the slow staffing process, weak administrative capacity, and lack of ministerial footing of the CSOA has had significant impact on its capacity to assume and execute all of its tasks related to the implementation and monitoring of the new CSA (SIGMA, 2009: 4). For instance, between 2005 and 2009, the CSOA lacked the capacity to ensure homogenous classification of civil service positions (despite the enactment of the corresponding decree; see above) (SIGMA, 2008: 12). Likewise, due to staff shortages²³ the Personnel Policy and Human Resources Management Department within the CSOA had (and still has) in many respects to delegate

²² The total cost in 2007 was HRK 19,9 billion, representing 17.8 per cent of the budget (total) and 7.26 per cent of GDP (Data provided by the MoF; cited in SIGMA, 2008: 8).

²³ For instance, in 2007 the HRMDD in the CSOA had 10 staff: 5 staff in charge of HR planning and 5 in the unit for HR development (SIGMA, 2007: 22).

its responsibility for participating in all the recruitment European Commissions (ibid: 3, 16). Indeed, although the capacity of the CSOA/Ministry of Administration is slowly and reluctantly increasing, it is still insufficient to fulfil its demanding supervisory role²⁴ (ibid: 11). Thus, considering the CSOA's limited oversight capacity and the fact that previous practices did not favour merit-based recruitment and/or promotion, there are strong indications that the law has not been adequately implemented. Regarding training, though the Training Centre has adequate premises and its staff size is progressively increasing (from just 3 in 2005 to 15 in 2008), staff turnover and inexperience remain a reality (ibid: 14). By and large, the main constraining factor for training is funds. For instance, of the requested (and, in principle, agreed) HRK 5.8 million for training activities in 2008, only 1.73 million was allocated by the parliament (ibid: 4).

On the subject of de-politicisation of the senior civil service, the inclusion of Article 74 was literally the outcome of a compromise between the Croatian government and the external donors (i.e., the World Bank, the OECD and the EU). More precisely, while the government agreed to take on de-politicisation for quite a large number of senior managerial posts²⁵, it did so under the condition that competitive recruitment in all management posts would be postponed until after the next general elections scheduled for November 2007 (Art. 151). In effect, this provision meant that the incumbents in positions that the new CSA defined as civil servant posts, most of them political appointees, remained in place. At the same time, key administrative legislation parallel to CSA, regulating staffing and recruitment,²⁶ has, as yet, been neither abolished nor changed to allow for its harmonisation with CSA (SIGMA, 2008, 2009). Following the national

²⁴ The CSOA has progressively increased its staff power (from 66 in 2004 to 115 in March 2008), but more employees are still needed in light of the creation of new internal departments (e.g., Department of Ethics, Department for Minorities, Department for General Administrative Procedures, etc.) (SIGMA, 2008: 15; SIGMA, 2009).

²⁵ The CSA stipulates that the positions of the secretaries at the ministries, deputy secretary of the Government, head of the Government Office, deputy state secretary of the CSOA and assistant director of the state administration organisations are included in the civil service system. However, the principle of recruitment by open and merit-based competition remains excluded for top managerial posts. Besides state secretaries, these positions still include also heads of central state offices and state offices as well as heads of state administrative organisations and state administrative offices who are to be appointed by the government upon the proposal of the prime minister (Art. 26 of the Government Act).

²⁶ This refers particularly to the State Administration System Act and the Government of the Republic of Croatia Act.

elections in November 2007 and the new government entering office in January 2008, recruitment to the newly ‘de-politicised’ senior management posts was undertaken. Interestingly, de-politicisation was circumscribed on the ground since appointment procedures remained ‘rather informal and politicians still play[ed] a decisive role in recruitment’ (SIGMA, 2008: 1). At the end of 2007, political leaders from different parties of the new broader coalition government of PM Sanader announced publicly in the media that they would gain a certain number of ‘depoliticised’ posts (ibid: 3). As a result, a large number of new political positions (i.e., state secretaries) were created, replacing the positions that were supposed to be depoliticised. Given the simplified recruitment procedure²⁷ being pursued and the decisive participation of politicians, in January 2008 34 state secretaries were appointed while 60 more were appointed after the new coalition government of PM Sanader was formed in January 2008 (ibid: 1).

Finally, the adoption of the new Salaries Act (ready by 2008) has been subject to considerable delays and is still pending parliamentary approval. This is partly due to resistance from the trade unions, partly because of the parliament’s decision to opt for a two-reading procedure rather than the fast-track/one-reading procedure proposed by the government, and partly due to the global financial crisis that hit Croatia in 2008 (SIGMA, 2009: 4). The SIGMA 2009 *Administrative Legal Framework Assessment* reports that the 2007/8 global financial crisis has severely affected PAR, postponing the adoption of the Salaries Act, the *State Administration Reform Strategy for the period 2008-2011* (SARS 2008-2011), adopted in 2008 (see below) and resulting in Croatia’s new PM, Jadranka Kosor (HDZ), imposing a 6 per cent pay cut for civil servants (10 per cent for senior public servants). Inevitably such a restrictive wage policy has caused discontent, especially among young and qualified civil servants, and has led to high staff turnover in key government organisations. Although there is no reliable data, interviews reveal that more than 100 young civil servants in the MFAEI and MoF have left the administration since August 2009. With them, the ‘institutional memory’ has gone as well (interview with

²⁷ Following the enactment of the CSA the government adopted on 12 January 2006 the Decree on the Announcement of Vacancies and Implementation of Public Competition Procedures and Internal Announcement in the Civil Service. However, successive governments led by the HDZ amended the said decree in 2007 and 2008 respectively, with the aim to permit simplified recruitment procedures (see SIGMA, 2008: 3). Accordingly, the minister or other state administrative body, or person authorised by them, interviews candidates and this interview is decisive for the final recruitment decision (ibid).

K.M.; Ministry of Administration). In such unfavourable conditions, the overhaul of other interdependent legislation related to CSA (most notably the Government Act and the System of State Administration Act) has once again been placed in limbo (SIGMA, 2009).

In short, the new CSA has not fully ‘replaced’ the old regulative system as previously existing legislation still remains in place and past habits favouring politicisation are yet to be overcome. Thus, as in times past, politicisation and professionalisation as well as the unification of the Croatian civil service system still remain ‘a hope more than a reality’ (SIGMA, 2008: 1; 2009). Croatian political elites (and not just the main ruling party, the HDZ) have posed considerable resistance to implementing the new rules. In this respect, domestic factors and actors have largely been non-favourable to ‘deep’ administrative modernisation qua Europeanisation. In light of this ‘shallow’ pattern of Europeanisation (cf. Goetz, 2005), what has been the response and actual power of the EU in prompting domestic compliance?

5.6.2. Monitoring the Monitors: Strong EU rhetoric but moderate EU effects?

Following the adoption of the CSA in 2005, the European Commission followed closely the implementation of the new law through the yearly SIGMA public administration assessment reports. Taking stock of the government’s defective stance regarding administrative reform in general, and the full implementation of the CSA in particular, the European Commission stepped up its tone considerably, as evidenced both by statements issued by EU officials and by its yearly Progress Reports. For instance, in its 2007 Progress Report (2007: 8) the European Commission stated:

‘Limited progress has been made on public administration reform [...] two of the thirteen regulations necessary for full implementation of the Civil Service Law remain to be adopted, despite this law being adopted in January 2006. There is still no overall comprehensive strategic framework for public administration reform, which continues to be implemented only in a piecemeal manner. Management and administrative capacity of institutions in charge of public administration reform, particularly the Central State Office for Administration (CSOA), remains weak [...] In many state institutions there is still general resistance towards merit-based personnel policy and career planning. The civil service continues to be politicised. Policy implementation often remains in the hands of political advisors. Undue political influence, even in the recruitment of technical staff, continues [...] Overall, limited progress has been achieved in the area of public administration reform. It continues to represent a major challenge for Croatia. A clear political commitment and sustained and serious efforts are needed’.

At the same time, the revised Accession Partnership for Croatia, adopted on 12 February 2008, contained some key targets for the country to achieve in order to fulfill the political criteria for accession to the EU. These were to ‘fully implement public administration reform measures on administrative procedures and on recruitment, promotion, training and depoliticisation’ and to ‘improve human resource management in areas of public administration’ (Council of Ministers, 2008). Following these stated political guidelines, the new broader coalition government under PM Sanader, invested in office in January 2008, proceeded with two rather cosmetic responses. On the one hand, it appointed Ms. Djurdja Adlesić (HSLŠ), Deputy Prime Minister, in charge of co-ordinating PAR. On the other hand, following a series of delays and considerable resistance, the new government adopted in March 2008 the *SARS 2008-2011* (Croatian Government, 2008b).

The European Commission’s response was rather mixed as manifested in its 2008 Progress Report. On the one hand, it welcomed these positive developments by noting that ‘Some progress has been made on public administration reform’, whereas, on the other, it continued to voice concerns over the slow and reluctant pace of implementation of the CSA and *SARS 2008-2011*: ‘public administration remains weak and the required reforms continue to represent a major challenge for Croatia. A clear political commitment and further sustained efforts are needed’ (European Commission, 2008a: 7). In effect, neither had the appointment of Ms. Adlesić succeeded in clarifying who had the leading role in driving and co-ordinating PAR, nor had the implementation of *SARS 2008-2011* begun (SIGMA, 2008: 4).

Following the appointment of a new cabinet under PM Kosor in July 2009, a new post of Minister for Administration (formerly the CSOA) was created in an attempt to inject the necessary political impetus into the reform process. Unlike her predecessor, Jadranka Kosor viewed herself as a reform-oriented prime minister capable of surmounting domestic resistance and depoliticising the administration. In view of the fact that under her leadership the Slovenian blockade was lifted and accession negotiations were approaching conclusion, this organisational change constituted a potential path-breaking step towards implementing the *SARS 2008-2011* and the CSA. Yet as noted above, the bad economic

situation and subsequent fiscal strains, coupled with domestic resistance and inertia, proved unfavourable to full implementation. Accordingly, the European Commission in its 2009 Progress Report would state (2009a: 8):

‘The draft Law on Civil Service Salaries has still not been adopted and a merit-based system of promotion and remuneration is missing. The civil service continues to suffer from many shortcomings, such as politicisation, low salaries (which fail to attract and retain sufficient numbers of qualified civil servants), lack of clear performance appraisal indicators, and weak human resources planning and management. Civil service salaries have been further cut to mitigate the effects of the financial crisis and a recruitment freeze introduced. Decision-making continues to be highly centralised with limited delegation of powers to middle and lower level management, leading to inefficiencies’.

Although there are no official data, public statements of EU officials suggest that by mid-2010 Croatian public administration still fell short of meeting the European administrative principles. In this respect, neither the explicit PAR obligations under the revised 2008 Accession Partnership nor the systematic monitoring of the European Commission throughout the period could render the EU’s ‘bureaucratic criterion’ credible enough to ensure something more than partial compliance. Arguably, the lack of EU ‘administrative *acquis*’ in conjunction with the Union’s inconsistent association of rewards has crucially undermined its leverage in conditioning the full institutionalisation of the new rules. It is therefore highly plausible that European Commission officials, taking stock of the country’s slow and ‘shallow’ engagement in implementing administrative reforms, will explicitly link the closure of the controversial Chapter 23 *Judiciary and Fundamental Rights*, among others, to the reform of public administration. In particular, the daily *Jutarnji List* of July 19, 2010 claimed that Croatian governing elites were requested, through a confidential letter sent to the Croatian government on 25 June 2010, to meet 21 informal ‘closing benchmarks’. Croatian policy-makers were arguably required to de-politicise the civil service, create a legal basis for the establishment of a professional civil service, and adopt the Salaries Act. However, the author has not been able to verify this information. That said, it remains to be seen whether concluding negotiations in Chapter 23 (scheduled for the first half of 2011) will lead towards a real breakthrough in tackling the Croatian bureaucratic edifice.

5.7. Conclusion

This chapter showed that the Croatian civil service system, though rigid in structure (cf. Knill, 2001), has been adapted (at least at the formal level) under foreign (including EU) direction. Throughout the 1990s the creation of a modern professional bureaucracy was not among the priorities of the nationalist regime of President Tuđman. In this respect, a great opportunity for administrative modernisation was lost, with past practices and structures surviving the ‘breakdown’ of the socialist regime. The outvoting of the authoritarian HDZ in 2000 and the subsequent investiture of democratic forces in office coincided with the increased involvement of the international community, including the EU, to strengthen the Croatian state after the 1998/9 economic recession. Largely as a response to the mounting fiscal imbalances, Croatian elites were pushed to seek financial assistance and advice from IFIs. At the same time, the government was negotiating an SAA with the EU, meaning that over time PAR would constitute a key accession condition.

The adoption of the new civil service legislation (CSA) in July 2005 represents a potentially ground-breaking step towards the establishment of a modern, Weberian-like pattern of public administration in Croatia. To an extent, formal compliance occurred under the timely ‘conjunction’ of multiple external conditional incentives and not solely as a result of EU conditionality. Yet ‘transformation’ through ‘replacement’ has proved to have a highly contentious, incremental, reluctant and, above all, ‘bounded’ effect (cf. Thelen, 2003; Pierson, 2004). Since the existing legislation corresponded to a strong normative tradition dating back to previous social regimes, external pressures were mediated by internal institutional legacies and powerful veto players (political elites) and their vested interests. At the same time, non-voluntary unfavourable conditions such as the lack of financial and/or administrative (including staffing) capacity as well as the country’s bad economic situation have, by and large, constrained elites’ actions in favour of reform. Without a doubt, the EU’s weak legal leverage in the area of public administration also helps explain the Croatian governing elites’ reluctance to renounce in practice their power in controlling the state. Therefore, while external conditional incentives did constitute catalysts for formal institutional change, thus far transformation seems ‘shallow’ (cf. Goetz, 2005) and partial as Croatian bureaucracy still remains *de facto* deeply politicised and unprofessional.

The next chapter traces the impact of European integration on Croatia's administrative procedures and justice systems.

6

Administrative Procedures and Judiciary

6.1. Introduction

The previous chapter explored the impact of European integration on Croatia's civil service system. This chapter serves to widen the lens beyond matters of civil service *per se* to the areas of administrative procedures and legality. It offers an opportunity to explore the relevance of 'Europeanisation' in a much neglected, yet critical, sphere: administrative justice. Considering that both the European Convention on Human Rights and the Charter of Fundamental Rights of the European Union constitute part of the EU *acquis*, candidate states are accordingly obliged to guarantee to everyone the right of free and public hearing by an independent and impartial tribunal, as well as to embody administrative procedure and dispute rules in special legal frameworks. Therefore, the contested, non-*acquis* administrative principles (see previous chapter) can be contrasted with a related but distinct and well-established EU standard: the legal review of administrative decisions by independent courts. It is here where the notion of 'interdependent institutional contexts'

developed in the HI literature is made relevant. Thus, ‘Europeanisation’ can be compared in the two issue areas.

The structure of the chapter is set out below. Section 2 provides a brief review of the administrative procedures and jurisprudence systems in Croatia before 1990. Section 3 discusses the social mechanisms which successfully obstructed the post-communist restructuring of Croatia’s administrative procedures and jurisprudence systems in the 1990s. Section 4 inquires into the EU requirements in the field of administrative procedures and the judiciary. Section 5 shows how politico-bureaucratic resilience and generalised administrative shortages obstructed reforms in the administrative justice sector, whilst Section 6 illustrates how reforms were eventually undertaken only under strong EU pressure. Section 7 assesses the degree of compliance. Section 8 concludes with a summary of this chapter.

6.2. A brief history of the administrative procedures and jurisprudence systems in Croatia before 1990

6.2.1. First Yugoslavia (1918-1941)

Prior to the creation of the SHS in 1918, Croatia (as part of the Habsburg Monarchy) adopted from Austrian sources pieces of legislation relevant for judicial organisation and process (Uzelac, 2000: 1). But, as Alan Uzelac (2004a: 6), one of the leading professors of law in Croatia, notes: ‘that process did not develop harmoniously, in full, or without delays’. For example, some of the key pieces of procedural legislation were adopted in Croatia after they had already been superseded in Austria (ibid). Following the establishment of the SHS, the justice system of this state was ‘very diverse’ (Uzelac, 2000: 2). Uzelac (2000: 2) notes that, ‘Organization and status of judges in this state was never uniform: the state was divided in six “legal areas”’.

Croatia’s legal order of procedures determining the rights and legal interests of physical and legal persons was codified for the first time in 1930 within a special law, the General Administrative Procedure Act²⁸ (GAPA) (Medvedović, 2003: 417). This act was based on

²⁸ Until 1918, within the scope of an autonomous Croatian administration, administrative procedure in individual fields and for individual issues was regulated through legal regulations bearing different legal power (Medvedović, 2003: 416-17).

the Austrian law of 1925, corresponding therefore to a strong normative tradition. Legal experts claim that GAPA was one of those acts with effects spanning over the entire administrative system of the state, including the administrative jurisprudence system (Medvedović, 2003, Omejec, 2008). Indeed, since its introduction in 1930, GAPA affected Croatian people in various spheres of their lives, from birth to death. Indirectly it also affected the relationship between the economy and public administration (Omejec, 2008). Thus, GAPA constituted one of the most important laws in the state and was of great strategic, political and social significance (ibid: 20).

6.2.2. *Second Yugoslavia (1945-1991)*

Following the socialist takeover in 1945, the Croatian judiciary maintained, to a high degree, its independence and an acceptable level of professionalism. Again, compared to the situation in other socialist countries, the destructive impact that the communist party-state had upon the legal profession was ‘of considerably lower intensity²⁹’ (Uzelac, 2000: 2). Yet, it was still significant. Uzelac (2000: 2) provides a telling summary:

‘Political pressures exercised on judges, their duty to implement party and state politics, politics of the “unity of power” (as opposed to the separation of powers doctrine), requirements of “moral and political suitability” – all these elements common to all communist regimes could be found at various stages of the existence of SFRY [...] in an overall evaluation, the system of justice had to survive several trends that adversely affected its position and functioning: law was generally neglected as a method of social regulation; social status and prestige of the members of legal profession significantly decreased; courts and their actions were systematically marginalized and isolated. There were two, parallel systems of conflict-resolution: one, informal, at the party level, tended to prevent and resolve every significant dispute by “political consultations”; the other, traditional court system, was greatly adopted to less significant matters, such as small claims, protection of possession, some land-related issues etc’.

These trends of over-politicisation and marginalisation in the Croatian judiciary were in turn reflected in the expectations of candidates for judicial service, and in the recruitment and the selection of judges: ‘Through several decades of socialist rule, the judicial profession was considered by graduate lawyers as a relatively poorly paid and bureaucratic

²⁹ Uzelac (2000:2) notes that, ‘With exception of several “revolutionary” post-war years, majority of courts and majority of judges continued to perform their function in a relatively civilized fashion; autonomous private bar organization (*Rechtsanwaltschaft*) continued to exist, and law was taught at universities primarily based on ancient patterns of Roman Law and Civil Code’.

branch of the civil service. Its advantages were seen in providing a relatively non-demanding job, with no pressure to do the work urgently and a lot of free time' (Uzelac, 2004a: 8). For all these reasons it is hardly surprising that under communism the judicial system was a discredited and under-institutionalised state institution.

Turning to administrative jurisprudence, while in socialist Croatia citizens had the right to appeal against an administrative act, a right stipulated by the federal GAPA of 1956 and the 1977 Administrative Dispute Act³⁰ (ADA), these laws were 'too complex, very casuistic and oriented toward the protection of the interests of the state, not citizens' (Koprić, 2009: 10; Medvedović, 2003). Regarding GAPA, this act had a subsidiary character and was applied in all matters that were not otherwise regulated by special law (Medvedović, 2003: 417). Besides GAPA, certain procedural issues were also regulated by federal and republic acts (ibid).

This complex normative regime, together with the fact that judicial review was under-institutionalised and therefore insufficient, severely undermined administrative reliability and accountability. Indeed, in the Yugoslav administrative legal tradition the concept of 'administrative dispute' as enshrined in the 1977 ADA regarded merely the 'lawfulness of an administrative act' (ibid: 22). It did *not* question the actual facts. Put differently, the Administrative Court (AC-established in 1977) could only establish the lawfulness of an administrative act but had no jurisdiction to judge the legality of a decision. This duty was vested in the administrative organ against which the complaint or lawsuit was filed in the first place. Moreover, the administrative dispute was a *one instance dispute*, so the AC represented the court of original jurisdiction as well as a court of appeal. Again, an AC decision was neither contradictory *nor* public, meaning that it did not oblige the administrative authority to abide by its decision (ibid). In effect, such a practice was detrimental to the principle of legality and by extension to the 'rule of law' since citizens filing the lawsuit had slim chance of overturning possibly harmful and illegal administrative procedures. This was because the AC was too feeble to enforce its 'opinions': implementation depended on the compliance of the respective administrative

³⁰ The first ADA in the former SFR Yugoslavia was adopted on 31 March 1952. None of the subsequent novelties of the ADA (including those introduced in the 1990s) did touch into the concept of administrative dispute introduced in 1952 (Omejec, 2008: 22).

authority. Coupled with fuzzy administrative procedures and thin chances for appeal, this situation provided a fertile ground for arbitrary decision-making in the administration, legal uncertainty and the practice of corruption.

6.3. The ‘nationalist’ take-over

6.3.1. Transition and the mechanisms of continuity

Compared to the case of the civil service, changes in the Croatian judiciary were more dramatic during the first period of the Tuđman regime. Writing on the issue, Lenard J. Cohen (1997: 86) summarise the key problem:

‘The initial decision of the Tuđman government to purge judicial officials from the old regime was designed to achieve both ethnic and political goals. Thus, the disproportionately high representation of ethnic Serbs in Croatia’s justice system during the communist period made the judiciary an attractive target for nationalist forces in the new Zagreb government. The fact that a large number of the newly elected Croatian political elite were disillusioned communists and former political dissidents who had been persecuted and imprisoned by the previous regime, also made changes in the judicial sectors a particularly high priority for the postcommunist government. Less than six months after taking power in Croatia, for example, the government had already replaced 280 judicial officials [including the president of Administrative Court].’

Indeed, although the independence of the judiciary was guaranteed by the ‘Christmas Constitution’ (1990), a number of controversial laws and constitutional provisions gave President Tuđman and his several Justice Ministers wide latitude over the appointment and removal of personnel in the judicial sector throughout the 1990s. According to Uzelac (2000: 7), the Courts Act of 1993 legitimised the ‘tacit removal of ‘unsuitable’ judges’. In fact, newly devised ‘flexible criteria’ replaced the former ideological (communist) criteria in judicial appointments and dismissal thus leading to the creation of a ‘state judiciary’ (Nikolić, 1990; cited in Cohen, 1997). Thus, staff-turnover and outflow was so extensive that the vacuum in human resources in some segments of the judiciary such as the Administrative Court troubles Croatia to this very day.

To be more precise, given ‘a prolonged period of uncertainty and political purges’, a great deal of the most accomplished and proficient judges left their posts ‘to other private legal work where they expected to find more peace, higher incomes and a greater level of

personal and professional freedom' (Uzelac, 2004a: 9). At the same time, as in the case of the civil service, a certain dose of continuity and reproduction informed the workings and habits of the Croatian justice system. Under Tuđman's 'national reconciliation' dogma, converted yet old judicial elites remained in office as 'change of generations in Croatia either did not occur or, where they did, were controlled by the old social elites who were able to invest in their own successors' (Rodin, 2007: 237). In particular, as regards the newly appointed judges, because a great deal of them 'were mostly young and without experience', they were appointed according to 'criteria of political and ethnic 'appropriateness' (Uzelac, 2004a: 9). For Siniša Rodin (2007: 237), such conditions of social transition were not 'incidental'. Rather, they were the consequence of 'a carefully designed regulatory policy' (ibid). For instance, the Courts Act of 1993 provided that in order to qualify for the position of judge in the High Commercial Court or Administrative Court, a candidate must have had at least eight years of practice as a judge, or at least twelve years of working experience as an attorney, professor of law, or public notary. Judges of the Supreme Court must meet a fifteen-year requirement (cited in Rodin, 2007: 237-38). Thus, it is quite obvious that such requirements could only be met by 'persons who acquired their legal education under communism' (ibid: 238).

Overall, the war, combined with limited generational change, the subsequent survival of the 'old cadre', the selective political 'cleansing' and patrimonialism, as well as the recruitment of inexperienced young judges, impacted heavily on the independence, staff power and efficiency of the Croatian judiciary (Uzelac, 2004a: 9). Indeed, the huge backlog of almost 895,000 pending cases in 1998 provides a general indicator of the inefficiency of the Croatian justice system at the dawn of the third millennium.

6.3.2. The administrative procedures and justice systems in the 1990s

Regarding administrative procedures and jurisprudence systems, no actual reform can be reported between 1989 and 1999 as the new leadership simply adopted (with slight modifications related mostly to terminology) relevant socialist legislation and structures (Medvedović, 2003). Thus the core tenets of the last amended versions of the federal GAPA of 1986 (*Official Gazette*, No. 53/91, 103/96) and the ADA of 1977 were literally transferred unchanged to Croatia's new normative order (Omejec, 2008: 20, 22).

Significantly, in the realm of public administration, individual questions of administrative procedure were, largely unnecessarily, regulated differently in separate pieces of legislation in relation to the solutions in the 'taken-over' GAPA. In particular, throughout the 1990s (and well after the regime change in 2000 - see below), a sizeable number of special administrative procedures were adopted (Ljubanovic, 2006). For this reason the field of administrative procedure became increasingly complex, the level of legal security of parties was reduced and the principle of the rule of law was also significantly brought into question (SIGMA, 2006). In particular, citizens, including (foreign) businessmen and legal experts, found it hard to determine which procedure applied in a given situation. Consequently, the administration perpetuated an inherited trend of legal insecurity. Moreover, in keeping with the regime's anti-EU discourse and policy in the second half of the 1990s, GAPA was not adjusted to modern European developments and no provision was made related to electronic tools and legal constructs, such as public law contracts or space planning (Omejec, 2008). In effect, institutional continuity combined with the strong entanglement of the ruling party with the new corrupted capitalist class meant that some segments of the business community closer to the regime enjoyed a privileged relationship with the HDZ-controlled state administration and judiciary (cf. Kregar, 1999; Petricević, 2000; Dragicević, 2005). In this sense, they constituted strong veto-players in opening up the Croatian economy both to healthier autochthonous forces and, most importantly, foreign capital by simplifying the excessively complex and non-transparent administrative regulatory regime (World Bank, 2001b). This element of continuity has been elegantly summarised by Jasna Omejec (2008: 21): '[...] the existence of the GAP[A] in the legal organisation has frozen the Croatian administration at the level where it was found at the moment of disintegration of the former SFRY. The administration has felt no changes in that segment, nor has it been confronted with requests for a conduct different from the one valid in the system of the former SFRY and SRC'. This, in turn, meant that past habits, administrative practices and socialist legal knowledge continued to be transferred from one generation of administrative lawyers and jurists to the other, including numerous students of law faculties (ibid). Unsurprisingly, Croatian administration and justice remained extremely conservative; thus, reluctant or unmotivated to change or push for changes.

Meanwhile, the Administrative Court (AC) of the Republic of Croatia, although free from its 'Socialist' connotation, remained the only instance of judicial review in the country

(Koprić, 2006a). ADA continued to stipulate that the administrative dispute was a ‘dispute regarding lawfulness of an administrative act and only in extraordinary cases as a dispute of full jurisdiction’ (Omejec, 2008: 22). In addition, an AC procedure remained neither contradictory nor public. In this context, the Croatian legislator needed to ‘make a reservation vis-a-vis a part of the Article 6, paragraph 1 of the Convention for the Protection of Human Rights and Fundamental Freedoms by the Council of Europe (the Convention) in the course of the ratification process’ (ibid). Thus, the Constitutional Court’s ruling of November 2000 would render the AC a partly-jurisdictional court, as the court is neither obliged to independently establish the facts of the cases submitted for its appraisal nor to have public sessions. Consequently, the European Court for Human Rights did not recognise its powers as being fully jurisdictional (SIGMA, 2005b: 24; see also Koprić, 2006b).

Overall, as with the case of GAPA above, neither the ADA nor the status of the AC was aligned with the respective European standards throughout the reporting period, owing partly to the regime’s isolationist foreign policy and partly to ‘the political resistance of the Judiciary to the reforms, especially if such reforms were aimed at interfering with political appointees...’ (Uzelac, 2004a: 9).

6.4. The *Acquis Communautaire* in the field of administrative procedures and jurisprudence

Although European integration in the EU has thus far not led to a common European model of organisation and procedure of national judiciatures, the latter ‘are losing their national or local character and becoming a part of the wider European system of justice, the national courts becoming European courts’ (Uzelac, 2004b: 106). Indeed, EU policies in the area of justice and home affairs aim to maintain and further develop the Union as an area of freedom, security and justice. With regard to EU candidate states, the impartiality, capacity and efficiency of the judiciary appear of paramount importance, not least because an independent and efficient judiciary constitutes – at the very elementary level - a *sine qua non* for the successful implementation of the ‘Copenhagen criteria’. Considering the fact that under communism national judiciaries in the CEECs were largely inefficient and impotent institutions subject to undue political patronage, the existence and efficient

functioning of impartial judicators in these countries became an important component of EU conditionality. Thus CEECs' progress in creating competent and independent judicial systems was monitored most attentively by EU institutions, notably the European Commission. Despite close monitoring, the EU lacked a distinct negotiation chapter on the judiciary. Taking notice of the significant role that national judiciaries play in the implementation and enforcement of EU policies and laws as well as the difficulty in monitoring pre-accession compliance in this field in light of the absence of a special negotiating chapter and corresponding vagueness as to what might constitute meeting justice thresholds on the part of the candidates, the European Commission developed a special, complex and highly demanding negotiating chapter related to the judiciary, Chapter 23 *Judiciary and Fundamental Rights* (interview with H.D., EU Delegation). In doing so, it was in part learning lessons from its CEEC enlargement process.

In regards to the administrative procedures and jurisprudence, Roland Wrinkler (2007: 4) notes that:

'Administrative Justice plays a crucial role for the application of EU law. To a large extent, EU legislation concerns administrative law, and authorities lacking the quality of a "court" in the meaning of Art 234 ECT and Art 35 EUT cannot cooperate with the European Court of Justice (ECJ) in Luxembourg. The accession of a state to the Union depends *inter alia* on its ability to fully implement and apply the large block of legislation found in the *Acquis Communautaire*'.

More precisely, Community law (most notably the internal market *acquis*) requires administrative regulations are based on and governed by a solid and transparent administrative procedures system where decisions made and enforced throughout the land are susceptible to appeal mechanisms. Moreover, the administrative judiciary plays a decisive role in the economic development of a country. For instance, almost all investment-decisions (e.g. shopping malls, factories) or infrastructure projects (e.g. roads, airports) have to pass through a licensing process which can become the subject of legal review by administrative courts. Effective administrative courts also increase the transparency of administrative decisions and play an important role in the fight against corruption. While the EU does not demand the existence of an independent Administrative Court *per se*, the ready access by citizens and business to a court system with procedures

providing for the prompt and final settlement of disputes is nonetheless a fundamental EU accession condition enshrined in the negotiating Chapter 23. The EU does not provide, however, a set of codified rules on administrative dispute.

Short of EU rules, the European Court of Justice (ECJ) has identified general principles of law to fill in this void (Wrinkler, 2007: 8). One of these principles is the guarantee of fundamental procedural rights. At their core is Article 6 of the European Convention on Human Rights (ECHR) which is part of the *acquis* according to the case law of the ECJ. Moreover, the ECJ has decided that Article 6 of the ECHR in its function as part of the *acquis* is not limited to civil rights and criminal charges, but also applies to *administrative procedure* and *administrative dispute*. In addition to Article 6 of the ECHR, Article 47 of the Charter of Fundamental Rights of the European Union guarantees everyone the right to a *fair* and *public* hearing within a reasonable time by an independent and impartial tribunal previously established by law in all matters. Overall, administrative jurisprudence provides a strong case of EU conditionality's pervasiveness.

6.5. The Association phase, 2000-2005

6.5.1. Path dependence and enduring resilience to reform

During the 1990s, Croatia's judicial system lacked impartiality and efficiency, and had staff shortages. It was also plagued by a series of scandals involving corruption and nepotism in the judicial sector that came to the light at the end of the 1990s, leading to an increasing awareness about the reform of the justice system on the part of the Croatian public and a segment of the media. Thus, as with PAR, the restructuring and de-politicisation of the judiciary were among the pre-electoral promises of the coalition of the democratic parties which won the elections at the beginning of 2000 (Uzelac, 2004a: 9; Uzelac, 2000). At the time, the public discourse about reform of the judiciary 'was completely independent of the process of joining the EU, motivated in the first place by a number of inherent reasons and incentives' (Uzelac, 2004b: 109), the most obvious of which were to reduce the huge backlog of cases and provide timely and fair court rulings.

Although there were many legal revisions and other projects between 2000 and 2003 regarding the reform of the judiciary, they changed little in practice. Laws such as the

Execution Act and Bankruptcy Act enacted in the mid-nineties witnessed several changes leading to a ‘legal chaos’ (Uzelac, 2004b). Others, such as the GAPA³¹ and ADA, remained practically the same since the time of the former Yugoslavia. Three inter-related factors are largely responsible for this: the already documented lack of administrative capacity and staff power in the ministry in charge (MoJALSG; see previous chapter); the strong resistance by legal professionals and ‘leftover’ judicial personnel to changes that might have affected their ‘independent’ status; and the enduring resilience by certain political groups (partly also within the governing coalition) to renouncing the power of political control over the judiciary (cf. Uzelac, 2004a). Thus debates about judicial reform were largely politicised. In this change-resilient context, official documents on the reform of the judicial system were rendered ‘a catalogue of wishes and an unsystematic list of items that have legal and political priority’ (ibid: 10). A strong political will, translated into a systematic strategy of changes that would lead to a deep reform of the Croatian judicature, was thus hopelessly missing.

In this respect, the restructuring of the Croatian judiciary would start rather belatedly and only under EU conditional incentives with the second Račan government adopting a strategic document on the *Reform of the Judicial System* as late as in November 2002 and an *Operational Plan* in July 2003. The justice reform strategy identified a set of measures for remedying a number of structural weaknesses. It included proposals for the establishment of a professional training system, alleviation of the work load in courts and simplification of court proceedings. It foresaw the adoption of new laws, purchase of equipment and filling of judicial vacancies, ‘although the time frame was rather unrealistic’ (European Commission, 2004: 18-19). Not accidentally perhaps, the re-launch of the justice reforms would coincide with the government’s application for EU membership in February 2003 and European developments: the Thessaloniki European Summit of April 2003, which for the first time rendered the membership perspective of the countries of ‘Western Balkans’ (including Croatia) slightly more credible through the introduction of European Partnerships and regular progress reports from 2004 onwards. Thus, the external incentive (membership) became gradually more visible and stronger.

³¹ In fact, a few more special administrative procedures were introduced in the first half of the 2000s, thus perpetuating an established trend of legal insecurity.

6.6. The Accession phase, 2005-2010

6.6.1. Reforming the administrative procedures and justice systems: Rigid conditionality and tight monitoring mechanisms

Following the regime change in 2000, Croatia made significant improvements in areas related to democracy and the rule of law. The constitutional system was generally respected and institutions functioned normally (European Commission, 2004). Beneath this veneer, however, old practices, structures and habits remained almost intact as far as the Croatian judicial and administrative procedures systems were concerned. The European Commission's Opinion (2004: 18) was rather illustrative of the matter:

'While considerable improvements have been made and the independence of the judiciary has been established, major challenges remain to be addressed. The main problems are the widespread inefficiency of the judicial system and the amount of time needed to hand down and enforce judgments as well as weaknesses related to the selection and training of judges. Moreover, too many issues are brought before courts that could in principle be decided by other means. All these factors combine to cause a very large backlog of cases. An additional problem is that the courts and parts of the state administration do not always respect or execute in a timely way the decisions of higher courts. Citizens' rights are therefore not yet fully protected by the judiciary in accordance with the provisions of the Constitution.'

With regard to Administrative justice in particular, the European Commission's Opinion stated:

'The Administrative Court should ensure judicial protection against final administrative decisions. However, the Constitutional Court ruled in November 2000, that the Administrative Court is not a court of full jurisdiction in accordance with Article 6 (right to fair hearing) of the European Convention of Human Rights, in particular because of its limited ability to establish independently the facts of a case and to hold oral and contradictory hearings' (ibid: 16).

It was scarcely surprising, therefore, that the urgent need to reform the judiciary was emphasised in the *Negotiating Framework: Principles governing the negotiations*, adopted by the European Council on 3 October 2005:

'In all areas of the *acquis*, Croatia must bring its institutions, management capacity and administrative and judicial systems up to Union standards with a view to implementing the *acquis* effectively or, as the case may

be, being able to implement it effectively in good time before accession. At the general level, this requires a well-functioning and stable public administration built on an efficient and impartial civil service, and an independent and efficient judicial system.’

With slightly more concrete wording, the 2005 Progress Report (European Commission, 2005a: 15) noted:

‘A coherent long-term strategy to tackle systemic problems is crucial if the goal of an independent, reliable, transparent and efficient judicial system is to be achieved.’

Following the opening of accession negotiations in 2005, implementation of the comprehensive new judicial reform strategy adopted by the Sanader government began in September 2005 and was approved by parliament in February 2006. The government also adopted an Action Plan in 2006 (revised in 2008), itself an opening benchmark for Chapter 23. Finally, a Judicial Academy was established in March 2004 with the task of providing continuous professional training for the judges, state prosecutors, judicial advisors and trainees (European Commission, 2005a: 84).

With regard to administrative procedures and justice reforms, by 2004 both domestic and external dynamics converged, eventually necessitating the overhaul of the GAPA and the elaboration of new legislation to simplify and streamline the work of the public administration in conformity with European standards. On the domestic track, many changes had taken place in the meantime which demanded the reform of the GAPA. For instance, a system of local and regional self-government was established and a significant process of decentralisation was underway. The liberalisation and privatisation of the public services sector had begun (telecommunications, the postal service, health, education etc). New regulatory and supervisory agencies were introduced. The expectations of the public and businesses had also changed considerably following the regime change in 2000. In this respect, it was felt that the work of the public administration was complicated, slow, excessively formalised, expensive, bureaucratic, and often included elements of corruption. On the EU side, the reform of the GAPA was required not just because it was out of date, but also due to the new European standards of public administration, the good practice of European countries, the broadly accepted effort to simplify administration, the

establishment of improved new standards for legislative techniques in the EU, and the strong development of information and communications technology (Croatian Government, 2008a). As for the reform of the administrative justice system, this had to wait for a while until the drafting and adoption of the new GAPA took place (see below).

It is telling that by November 2004 the first Sanader government had already appointed a special Committee within the CSOA to draft either a new GAPA or amendments to the old one. Following the respective SIGMA assessment, the legal revision was postponed awaiting confirmation concerning whether a completely new law was to be drafted or amendments to the existing law sufficed (Croatian Government, 2006). The strong interest of the European Commission in GAPA was for the first time explicitly articulated in 2005, when the EU Delegation in Zagreb invited Croatian authorities (located in CSOA) to seriously consider including GAPA's revision within the CARDS 2003 project *Support to Public Administration and Civil Service Reform*. After an initial reluctance, CSOA responded positively as a considerable financial 'carrot' of €1.7 million was at stake (interview with D. P.; Ministry of Administration). The inclusion of GAPA into the CARDS framework meant in effect that a Croatian 'core administrative structure' (cf. Knill, 2001) was to be challenged and considerably re-shaped by EU/SIGMA agents.

These actors, assisted by a handful of Croatian pro-reform academics and administrative judges, endeavoured as early as mid-2006 to build a wide legitimacy and co-ordination base for the reform. After all, according to the literature on institutional resilience, coordination problems constitute one of the four major obstacles to change (cf. Pierson, 2004). Therefore, involving and co-ordinating multiple stakeholders constituted a clever tactic from the perspective of EU/SIGMA. Thus European experts launched a broad communication process with relevant areas of Croatian society (courts, bar association, academic world, commerce and industry, parliament and ministries). Accordingly, an open communication process (exemplified through a series of symposiums and workshops) and the establishment of an Advisory Committee (representing all relevant stakeholders) enabled a broad consensus on the reform to be forged initially. Meanwhile, EU experts, fully aware that the fundamental revision of the GAPA bore significant 'adaptational costs' (cf. Schimmelfennig and Sedelmeier, 2005b) for a significant part of the Croatian

bureaucracy and business community, tried to gain the government's full support thereby surpassing potential veto players. To that end, two policy documents bearing the government's formal approval were elaborated by the CARDS team: (i) 'Principles of Public Administration and Objectives of Administrative Procedures' and 'Guidelines for the Legislation of General Administrative Procedures in Croatia'. By adopting the said documents in September 2006 and January 2007 respectively, the Sanader government manifested its full commitment to the overhaul of GAPA.

In May 2006, a working group was established within the CSOA, assisted by European experts within the context of the EU-funded CARDS 2003 project. Initially, progress in law drafting was quite slow, but by 2007 it accelerated. This was in part due to the European Commission's increased interest in harmonising GAPA with European thresholds. This is manifested in its recommendations in the 2006 screening reports on the 'Competition Policy' and 'Public Procurement' (European Commission, 2006b, c), as well as 2006 progress report:

'[...] besides the existing GAP[A], there are numerous special administrative procedures regulated through special legislation. The existing legal administrative system in Croatia is cumbersome and needs simplification. The wide discretionary scope in legislation leads to inefficiency and legal uncertainty and facilitates corruption. The Administrative Court is unable to cope with the present workload of reviewing administrative decisions' (European Commission, 2006a: 6).

Thus, the final draft GAPA was expected to be submitted to the government by July 2007 and the parliament before the autumn of the same year. Nonetheless, this objective proved quite ambitious given that the 2007 was an electoral year and the government did not want to upset its party clients in the public administration and judicial systems, not to mention a very powerful segment of the country's business community. Indeed, the revision of GAPA was a delicate issue threatening the HDZ-led government's very survival, as back then it relied on a one-seat majority in the parliament. Many vested interests in the sense of 'specific assets' (the second major stumbling block in institutional reform; cf. Pierson, 2004) were at stake. Namely, GAPA and the multitude of accompanying special procedures (approximately 70 to 80), including ADA, constituted an old and therefore rigid 'interdependent web of institutions' (cf. North, 1990). Simultaneously, generations of Croatian administrators, lawyers, civil servants, businessmen and judges were acculturated

to them throughout time. In particular, academic infighting, the inborn inertia of civil servants (in face of the new GAPA demands for training and greater level of responsibility without adequate financial compensation) and natural inclination toward bureaucratisation, the unwillingness of senior bureaucrats to concede decision-making to lower hierarchical levels, political and business corruption, and a prevailing culture that sees the relationship of administration and citizen in a state-centred, rather than citizen-centred perspective, are among the key obstacles to reform in this sector (interview with Koprić Ivan; cf. Omejec, 2008: 52).

Consequently, from the outset the process of designing the new GAPA was fraught with considerable resistance as to the extent it should depart from the old legislation (interview with K.M; Ministry of Administration). Eventually, two competing camps with diametrically opposed objectives were forged over the new legislation. European experts assisted by pro-reform academics from the Faculty of Administrative Science in the Zagreb and Osijek Universities and some Administrative Court judges advocated overhauling the existing legal framework (including the relevant special laws) resulting in a new and modern piece of ‘general’ legislation based on the virtues of the old GAPA (interview with A.M.). It is telling that this pro-reform constituency would be over-represented in the first working group in charge of drafting the new legislation (interview with Koprić Ivan). On the other side, there was a ‘silent coalition’ between (senior and low level) bureaucrats, jurists, academics and businessmen opposing the new GAPA’s philosophy, legal technique and, most importantly, its provision to devolve decision making within the hierarchy (Art.18) (interview with Koprić Ivan).

The main governing party (HDZ) stayed in power in November 2007. This also meant that the CSOA witnessed no changes as the respective State Secretary remained in office. However, the decision to establish a second working group charged with adjusting ‘linguistically’ the first draft of GAPA disguised a rather radical agenda to re-draft the new legislation almost from scratch and thus ‘neutralise’ the ongoing process of administrative modernisation (interview with Koprić Ivan; K.M., Ministry of Administration). It is well-known that the then State Secretary (himself a judge educated under the socialist regime) was very proud of the country’s Austrian legacy (interview K.M.; Ministry of Administration). In this respect, the person in charge of the administrative reforms was

‘leftover’ from past times and a natural veto-player. Thus, it is hardly surprising that this second working group consisted largely of ‘traditionalists’, eventually reducing ‘modernisers’ to a minority (interview with Koprić Ivan). Consequently, the draft GAPA was drastically revised, making the second version a completely new law (interview with K.M.; Ministry of Administration). As one insider rather cynically put it, ‘GAPA’s novelties were simply ‘lost in translation’’ (interview with K.M.; Ministry of Administration). When this second draft was submitted to the SIGMA unit for comments, the reaction was the following: ‘There are some concerns that possible [fundamental] changes to some key areas will blur the final draft’ (SIGMA, 2008: 19). Yet, this was something that could not escape the EU’s attention.

Through the revised Accession Partnership of 2008, Croatian elites were urged to ‘fully implement public administration measures on administrative procedures [...]’, that is, to adopt the *first* draft of GAPA. In response to growing European pressures, in September 2008 the new government adopted a proposal for a revised GAPA (European Commission, 2008a). The final version of GAPA was ready by autumn 2008, and submitted to the *Sabor* in December. In the period preceding adoption, there were many official visits of SIGMA officials in an effort to guarantee that all of SIGMA’s recommendations were included in the new law (interview with K.M.; Ministry of Administration).

At the same time, in contrast with the CSA reform case, the European Commission’s conditionality in the realm of administrative procedures and justice was clearly defined and communicated to the Croatian government, meaning that the ‘credibility’ and ‘salience’ of EU conditions (cf. Grabbe, 2006) were high in the sector of reform. Interviews reveal that the government was placed under heavy pressure to adopt the GAPA by the EU Delegation and some member-states (interview with K.M.; Ministry of Administration). After all, the Union has special sanctioning power in the negotiating Chapter 23. In the words of the EU ambassador to Croatia:

‘The GAPA [...] have to be adopted taking into account the EU projects recommendations. In addition there should be a track record of implementation of the new laws in order to make credible the foreseen changes in administrative disputes (Implementation). Finally it should not come as a surprise if I stress today that the reform of administrative justice *could* qualify as a *closing benchmark* for Chapter 23’ (Degert, 2009; emphasis added).

Not accidentally, therefore, the opening and closing of the negotiating Chapter 23 has been a very contentious process (partly because of the ICTY issue) as evidenced by the fact that it has been intentionally left last in the timetable of the accession talks. Unsurprisingly then, the new GAPA was adopted by the parliament in March 2009. The new legislation (*Official Gazette*, No. 47/09), which was to enter into force on 1 January 2010, incorporated many of the SIGMA proposals. Yet, ‘in several aspects it was not daring enough in breaking with old traditions in this area’ (SIGMA, 2009: 2) (see below).

As regards the reform of administrative justice, the legal and organisational overhaul of this important segment of the Croatian judiciary was considerably delayed for (at least) three reasons. First, it could not begin without an adopted legal framework defining the new outlook of the public administration (i.e., the new GAPA). Second, the administrative capacity in the Ministry of Justice unit responsible for the articulation and monitoring of the 2006 *Judiciary Reform Strategy* was quite weak (European Commission, 2007, 2008a, 2009a). Lastly, much like the case of GAPA revision, the powerful corporatist lobbies of legal professionals had efficiently slowed down the process of judicial reform. Thus as of 2008 the existing ADA did not meet EU requirements and the Administrative Court was still not a court of full jurisdiction in the meaning of Article 6 of the ECHR (European Commission, 2009a: 52). As in the case of civil service reform therefore, the revised 2008 Accession Partnership set priorities for the judicial system: ‘[to] substantially reduce the case backlog and ensure an acceptable length of judicial proceedings’.

In response to strong pressure from the EU, as late as 2008 the Croatian government began drafting a new ADA, a new Administrative Court Procedure Act (ACPA), and rationalising the organisation of administrative justice within the EU-funded CARDS Twinning project *Support of a More Effective and Modern Functioning of the Administrative Court of the Republic of Croatia* (SIGMA, 2008: 22). Since PAR and judiciary reforms became a key Accession Partnership condition as the country got nearer to concluding negotiations, the new legal regime was ready by March 2009 (SIGMA, 2009: 11). The draft prepared under the Twinning project was then further revised by a working group set up by the Ministry of Justice (*ibid*). It was expected that the final draft would be ready for submission to the government by July 2009, so that the new ADA could come into force on 1 January 2011. The finalisation of the draft ADA was however delayed, leading the European Commission

in its 2009 Progress Report to express regret on the matter (European Commission, 2009a: 52). Not accidentally perhaps, the new ADA was eventually adopted in February 2010 – just prior to the opening of the negotiations in Chapter 23 (interview with M. V.; Ministry of Administration).

6.7. Domestic adaptation: Formal compliance and partial change

The preceding sections made it clear that with the impetus provided by EU conditional incentives the Croatian administrative procedures and justice systems were reformed. At a first glance, the adoption of the new GAPA and ADA (if implemented correctly and monitored with vigilance) constitutes a potentially path-breaking step towards the establishment of an efficient, service-oriented and professional administrative practice and justice in Croatia. That said, shortcomings in the content and implementation of the new legislation continued (see below).

Regarding the new legal and regulatory system pertaining to administrative procedures, the GAPA of 2009 sets in place several important innovations such as ‘one-stop shops’ and administrative contracts, while simplifying and developing the system of legal remedies which now crucially include the complaints procedure. Significantly, following EU/SIGMA recommendations, the new GAPA is more than 100 articles shorter than the previous one. Further, the second-instance administrative body will be able to establish facts and make decisions on administrative matters (SIGMA, 2009: 8).

All these novelties notwithstanding, Ivan Koprić (2009: 16), Croatia’s leading professor in administrative law and participant in the two working groups responsible for drafting the GAPA, notes that, ‘Unfortunately, certain domestic academicians with close relations with influential middle and a few high-ranking administrative managers have succeeded in blocking a great part of the [GAPA] modernisation solutions’. His critical points are echoed in the 2009 SIGMA *Administrative Legal Framework Assessment* (SIGMA, 2009: 8):

‘In spite of the expected positive impact of the new GAPA, it could nevertheless be more open to other improvements and simplifications. For instance, the GAPA is still too restrictive regarding the use of administrative contracts, too detailed in terms of the required elements for an administrative act (20 elements), and too demanding in requirements for the use of minutes.’

Another crucial aspect conditioning the successful and full implementation of the new GAPA relates to the review of the multiple ‘special’ administrative procedures laid down in sector-specific laws and regulations. To that end, a project funded by Danish bilateral co-operation was envisaged to start right after the adoption of the new GAPA, and was aimed at abrogating as many procedures as possible and aligning the remainder with the general principles of the new law (interview, K.M.; Ministry of Administration). For people acquainted with Croatia’s administrative procedures system, the abolition of the special administrative procedures (which in the meantime have increased from 80 to 104!) constitutes a *sine qua non* for otherwise very little is changed. But here too, reform seems to be lagging considerably behind, thus thwarting the practical transformation of the old institution. At the time of writing, Croatian policy-makers have hesitated to start the said Danish-sponsored ‘guillotine’ project. Three main factors seem to explain such reluctance: the lack of political will to finalise the reform, coupled with enduring resistance from some segments of academia and legal professionals, the lack of adequate administrative, staffing and financial capacity in the organisation in charge, (i.e., the new Ministry of Administration), and the high co-ordination costs that such a ‘guillotine’ procedure entails (interview with K.M.; Ministry of Administration). In the meantime, the administration still applies the provisions of the old GAPA, given that neither has a comprehensive training strategy been adopted to acquaint the administrators with the new regulatory administrative procedures nor has a wide public campaign on the novelties of the new GAPA been instigated. This being so, while external pressures have managed to alter a ‘path-dependent structure’, there are signs that they have been channelled and circumscribed on the ground.

Where administrative justice is concerned, the new ADA develops Croatia’s obsolete administrative justice system and brings it into line with the corresponding *acquis*-based EU standards. In particular, it foresees the move from simple legality to full jurisdiction, that is, the establishment of a ‘two-track’ administrative justice system, by January 2013. As a consequence, ‘a dispute of full jurisdiction with the possibility of holding oral contradictory hearings about facts that are disputable between public-law bodies and citizens and other parties would be possible’ (Koprić, 2009: 20). In terms of organisational changes, four new ‘regional’ administrative courts will be established in Osijek (Slavonia), Split (Dalmatia), Rijeka (Kvarner) and in Zagreb. The existing Administrative Court will

be kept as a court of appeals and cessation (SIGMA, 2009: 11). As noted, the new ADA is to come into force on 1 January 2012, meaning that implementation has been considerably postponed – not least due to the bad fiscal and economic situation of the country (ibid: 12). Significantly, this delay in putting into force the new ADA negatively affects the effective implementation of the new GAPA, leading in practice to *chaotic* institutional terrain in the field of administrative procedures and justice.

6.8. Conclusion

In light of a ‘judicial *acquis*’ which required a codified administrative procedures and disputes framework guaranteeing an open and transparent state-society relationship based on the ‘rule of law’ and open competition, Croatian ruling elites were obliged to adjust existing legislation to European standards. Yet, as with the CSA (see previous chapter) and despite more credible and consistent EU conditionality, institutional development was a highly contentious and ambivalent process. GAPA is of particular interest here. While the new law was adopted in March 2009 and entered into force on 1 January 2010, it still remains unclear whether the new GAPA constitutes a path-breaking ‘novelty’ or whether the old fragmentary and non-transparent regulatory system is still in operation. The implementation of the new GAPA has so far been severely undermined by the continued presence of special administrative procedures, the number of which has in the meantime increased rather than decreased. Three main factors appear to have severely affected the implementation of the new GAPA: the limited administrative and staffing capacity of the new Ministry of Administration, the lack of strong political will to carry on reform, and the global financial crisis that hit Croatia in 2008/9. The rationalisation of the administrative justice system has also been put on hold due to the country’s bad fiscal and economic situation.

Without a doubt, the adoption of the new GAPA and ADA constitutes a groundbreaking novelty, especially considering the country’s strong normative traditions in this area. Indeed, ‘formal change’ (cf. Schimmelfennig and Sedelmeier, 2005b) has occurred. But, until now little has been changed on the ground. As in the case of civil service restructuring therefore, partial or shallow compliance seems to characterise this sector of reform. Overall, while the credible EU conditionality and close monitoring in the field of administrative procedures and jurisprudence have managed to trump adoption costs and

supersede veto-players, leading to formal compliance, as theory predicts (cf. Schimmelfennig and Sedelmeier, 2005b), it still remains to be seen whether formal change will be transformed into post-accession sustainability and behavioural change, i.e., ‘institutionalisation’.

7

Regional Policy and Decentralisation

7.1. Introduction

This chapter considers the extent to which EU cohesion policy and related pre-accession instruments (most notably the CARDS programme) were causally linked to the development of policy and institutional arrangements in Croatia in the regional policy domain. In line with this study's 'bottom-up-down' analytical perspective, the chapter further explores the extent to which Croatia's current territorial and administrative organisation and the making of regional policy were shaped by path-dependent factors located in the domestic political setting rather than (solely) by external pressures for compliance. Considering the country's striking internal regional differentiation, historical priors may have crucially affected the contemporary actions of the key actors in this policy field and therefore a systematic analysis of their origins is called for. In particular, I will examine the impact of pre-communist, communist and post-communist experiences on regional reform and regional policy making. On the EU side, EU institutions do not formally require either the modification of the territorial-administrative division of a country (be it member or candidate) or the existence of a fully-fledged national regional

development policy (RDP) (Hughes et al. 2004). Yet, adaptations in a country's regional map and regional policy are implicitly called for as a functional condition for participation in the EU structural and cohesion funds. Therefore, territorial re-configuration according to the NUTS classification guidelines and a national RDP in line with cohesion policy principles has also become part of enlargement conditionality (Jacoby, 2004, 2005; Vass, 2004). In this respect, there is a need to compare domestic historical legacies and their relative importance with the EU's external incentives and pressures in order to clearly demonstrate causal lines of influence. This comparison will allow us to bring the 'historical context' back into to the discussion on EU enlargement and conditionality by demonstrating their overlap and interaction.

The structure of the chapter is set out below. Section 2 discusses Croatia's historical legacies with respect to regional politics. Section 3 considers the impact of post-communist transition and warfare on regional reform and policy-making. Section 4 inquires into the EU's leverage in the realm of regional policy and decentralisation/regionalisation. Sections 5 and 6 examine the effect of Europeanisation on the country's territorial organisation and regional development. Section 7 provides an overall assessment of the extent of Europeanisation in Croatia's regional policy domain. Section 8 concludes with a summary of this chapter.

7.2. Historical Priors

7.2.1. Pre-communist experiences

Striking internal regional differentiation has been one of the enduring features of Croatian territory³² (Pavlaković-Koči and Pejnović, 2005: 7). Croatia's diverse climatic conditions, topographies and natural resources largely account for the development of political regionalism in the country (Goldstein, 1999: 1-8). At the same time, Croatian history unfolded under various kinds of foreign influence - Hungarian, Venetian, Ottoman, Austrian and French. These influences in different Croatian provinces (most notably, Istria, Dalmatia, Central Croatia, North-West Croatia and Slavonia) varied, creating marked

³²Present-day Croatian territory covers 56 594 km² of land and 31 067 km² of territorial sea. The coast is one of the most indented coast lines in the world, and with 1 246 islands it is the second largest archipelago in the Mediterranean.

regional differences (ibid: 2). Thus, it is hardly surprising that the country has lasting regionalist traditions which in themselves are grounded both in history and geography.

For most of its history, Croatia had the inter-mediate tier of government, but ‘with different roles, competences, [and] number of units’ (Koprić, 2007: 94). Much like Hungary, Croatia’s traditional territorial and administrative unit has been the *županija*³³ (county). In the context of the Austro-Hungarian Empire (1867-1918), Croatia was divided into four broad administrative territories, with some of them divided into counties. The struggle to bring the four lands under one administration was as important a task for Croatian nationalists as was the struggle for national independence (Antulov, 2000: 2). But, as matters played out, it proved fruitless given that after the fall of the Austro-Hungarian Monarchy in 1918, Croatia entered the SHS. Much like under their previous patrons, Croats were initially subject to a strict centralised control by Belgrade (Sević and Rabrenović, 1999). After the proclamation of the Act on Self-Government in the Districts and Regions, counties ceased to exist and, from 1929 on, ‘banovine’ were established on the territory of the former state. At the beginning of April 1941, the Kingdom of Yugoslavia fell, and on April 10 of the same year, the Nazis-loyal puppet Independent State of Croatia (NDH) was proclaimed. Until the end of the Second World War, many Croatian territories on the Adriatic coast (most notably the Istria peninsula with its vibrant Italian community) were part of Fascist Italy. With the fall of the NDH the territorial-administrative configuration in counties disappeared (Magaš, 2003).

7.2.2. Communist take-over: Territorial organisation and progressive decentralisation trends

Much like in the Soviet Union, in the early years of post-war Yugoslavia concepts like ‘regionalism’ or ‘regional policy’ were demonised and accordingly ostracised together with the reactionary ideas of ‘capitalism’ and ‘nationalism’ (Antulov, 2000: 2). Central socialist planning directed by the Federal Planning Office in Belgrade was the norm (Bartlett, 2003: 28). But, the ‘break’ with Stalin in 1948 marked the inauguration of Yugoslavia’s exceptional path of ‘self-managed socialism’ which, among other novelties, was strongly associated with the country’s progressive politico-administrative and fiscal

³³ Ivo Goldstein (1999:17) notes that counties were introduced in the 10th century for the first time.

decentralisation. The frequent constitutional amendments gradually decentralised Yugoslavia. From a federal state of six socialist republics and two autonomous provinces in 1949, it evolved into a loose con-federal association of quasi-sovereign states granted the right of secession in 1974.

Mirroring the frequent political and administrative changes at the central tier, Croatia's sub-national system of governance was subject to 'too frequent [...] changes' (at least twelve) in the 45 years of communist rule (Magaš, 2003: 135). Not surprisingly, these changes were based on political and economic compromises rather than optimal geographical and historical factors (Kordej-De Villa et al. 2004: 620). Thus, reducing the territorial setup of Croatia to the sphere of politics without scientific basis 'often provoked polemics which in the end meant the institutionalization of regional system as political system and devaluation of the system that functioned as economic, cultural and geographical system for very many decades and through [Croatia's] long history' (Šimonović, 1992 cited in Magaš, 2003).

As part of Yugoslavia, Croatia moved gradually from a highly fragmented territorial-administrative structure in 1946 (110 districts, 25 towns and 4399 local peoples' committees) to a state-directed fused system in 1967/8 in which the relatively large 104 *općine* (municipalities) typically performed both state administrative and local government functions (Jambrek, 1975: 99). In the vision of Yugoslavia's ideologues, the socialist Yugoslav society was to be constructed as 'a loose federation of small, self-sufficient communes' (Antulov, 2000: 2). Therefore, the 1974 Constitution of the Socialist Republic of Croatia established communities of municipalities as an obligation (Kordej-De Villa et al. 2004: 620). In reality, each of the 104 municipalities resembled a 'mini-state' with its own army (Territorial Defence), police and other autonomous governmental and para-governmental services (Antulov, 2000: 2). A significant number of public and social welfare policies were also devolved to the sub-national level (cf. Jambrek, 1975). These strong trends of decentralisation notwithstanding, the institution of municipalities proved an 'absolute failure'. Dragan Antulov (2000: 2-3) summarise the point well:

'Instead of being composed of thriving autonomous and self-sufficient entities, Croatia, like other former Yugoslav republics, was burdened with hundreds of small and inefficient bureaucracies. In some cases, the noble ideals of intercommunal cooperation clashed with the short-sighted, selfish interests of local clans,

perpetuated by the Party organisation that mirrored administration, and vice versa. The municipality system became unpopular, not only because of its inefficiency, but also because it was obstructing the aims of a resurrected Croatian nationalism. That was especially the case in the eleven Croatian municipalities whose populations had an absolute majority of ethnic Serbs’.

Even within such an atmosphere, those voices demanding a regionalist organisation of Croatia did find their way in establishing some sort of ‘macro-regions’. Building on the 1974 constitutional obligation of inter-communal amalgamation, many municipalities were eventually grouped into so-called ‘commonwealths of municipalities’ based on regional principles - one commonwealth covered Dalmatia, a second, Slavonia, a third, Istria and the northern maritime regions Lika and Gorski Kotar, a fourth, the rest of Croatia. Another commonwealth was established for the city of Zagreb (ibid: 3) – thus a division which roughly corresponded to Croatia’s five historical provinces (cf. Ivanišević, 2003: 26). But, in actual fact, these ‘macro-regions’ were ‘mere formalities, nothing more than advisory committees with neither clear jurisdiction nor the power to enforce their decisions’ (Antulov, 2000: 3). When communism withered away in Croatia in 1990, the old administrative structure was hardly fertile ground for regionalist tendencies. Nevertheless, as we shall see below, regionalism in Croatia hardly became extinct.

7.2.3. Emerging regional disparities

Grouping numerous micro-units into large municipalities, particularly in poor and isolated areas, enabled over time the uneven ‘concentration and polarisation of power and funds in a smaller numbers of centres and higher degree of control from the main centres of political power’, i.e., ‘city-poles’ such as Rijeka, Pula, Split, Osijek and Zagreb (Magaš, 2003: 138; cf. Šišinački et al. 2002). Meanwhile, peripheral areas underwent a process of relative decline, which was accompanied by processes of rural exodus, abandoning of the islands and mountainous zones and excessive urbanisation (Magaš, 2003: 138). Following the Marxist concept of ‘socialist accumulation of capital’ and the corresponding industrialisation blueprint, a colossal re-location of peasants to the ‘would-be’ industrial ‘city-poles’ took place, albeit without any consideration of the respective spatial effects that such a process entailed³⁴. In short, the uneven spatial distribution of population

³⁴. According to Pavlakovic-Koci and Pejnovic (2005: 8-9), ‘the number of people involved in agriculture between 1953 and 2001 [was radically diminished] by some 2,000,000 or almost 90 percent’ resulting henceforth in rapid spatial polarisation.

together with uncoordinated economic activities on the part of the federal and republic authorities contributed to wider regional developmental gaps both at intra- and inter-republican scales in Yugoslavia (including Croatia) (cf. Kordej-De Villa et al. 2004; Šišinački et al. 2002).

In response to the ever-growing inter-republican and regional socio-economic disparities, the federal government introduced two measures which, allegedly, had long-lasting negative effects on Croatia's economic development. First, given the high control exercised by Serbia within the SFRY, Croatia during that time primarily developed transport connections with Belgrade and East Europe, while connections with the coastal zone were neglected (Žuljić, 1992). Second, state intervention in regional economic development in the form of redistribution of material resources from the wealthier republics and successful economic actors (i.e., Slovenia and Croatia) to the lagging regions (e.g., Macedonia, Kosovo) entailed equally negative consequences for the economic development of Croatia (Pavlaković-Koči and Pejnović, 2005: 10; Kordej-De Villa et al. 2004).

In particular, in response to the 1971 Law on the Promotion of Balanced Regional Development, substantial resources from Croatia (and Slovenia) were politically redistributed to other relatively under-developed regions in SFRY. Regional development funds were established both at the federal level and at the level of the republics. Mirroring the federal level, the same trend of politically motivated financial reallocation for the purpose of equitable growth was also practiced within Croatia (Žuljić, 1992). Already in the 1960s, parts of Croatia were marked as underdeveloped and the transfer of savings (investments) was earmarked in the state budget. As Kordej-De Villa et al. (2004: 622) reveal, 'The criteria were economic but also political so that the results were 'castles built in the desert' which in most cases proved unsustainable, and a constant burden for the state budget'. Dependent areas were evolving and gradually getting used to continuous external support (ibid). Subsidies were given a legal definition of the communes which were 'too poor to maintain their public agencies at the standard level' (Jambreč, 1975: 121). Such a non-transparent practice of categorisation entailed an increasing antagonism between Croatia's municipalities which in turn struggled to gain politicians' support. Writing on

Slovenia's regional politics, Peter Jambrek (1975; emphasis in the original) ably demonstrates the issue of state-dependency:

'The wealthier communes would like to reduce the power of the state (republic) government, and consequently, retain more resources for themselves (they are the 'socialist liberals'), and the less developed ones are proponents of strong central government ('the true socialists'), which *only* means that *they expect financial assistance from the state capital.*'

Even today, a major number of these 'centre-dependent' localities are considered as 'areas of special state concern' in Croatia (see next section). The legacy of state-sponsored dependency and favouritism is strongly embedded in local peoples' mindsets, obstructing thereby inter-communal cooperation as well as any attempts by state authorities to design a nationwide concept of regional development (Sumpor and Starc, 2003).

As regards regional policy itself, the strong sectoral focus on the physical dimension of development within the SFRY rendered regional planning (if any) a parallel and largely neglected policy area (Kordej-De Villa et al. 2004). In addition, despite the fact that socialism in Croatia bore a 'self-management' label (which by definition implied partnership), regional policy making was conducted in a centralised manner, i.e., at the level of the republic (the only tier that remained the same throughout this period), rendering participation 'largely fictional'. As Đokic et al. (2007: 158) note, 'At best [participation] existed as *ex post* participatory public hearings on the occasion of the preparation of physical plans'. The occasion of preparation of so-called 'socio-economic plans' (municipal, regional, national) was never used to obtain development views or derive the development interests of those affected by the plan. In effect, the whole system was quite non-transparent with local barons using programmes to reinforce their powerbases following personalised strategies. Over-politicisation and over-bureaucratisation with little or no monitoring or evaluation characterised development planning (ibid). To the extent that 'municipal development programmes' existed they were methodologically ill-conceived lacking institutional analysis, as well as action plans to guide the implementation phase (ibid: 156-159). During the last years of communism, Yugoslavia's growing fiscal non-sustainability and inflationary trends (cf. Bartlett, 2003) meant that state interest for regional development particularities was sacrificed for the sake of maintaining stability at the *macro*-level.

7.3. The ‘nationalist’ take-over

The transition to market democracy marked a radical break with long-established traditions of (administrative, political and economic) decentralism that had been endorsed and boosted after the infamous 1948 ‘split’ between Marshal Tito and Stalin. Considering the ‘state of emergency’ in which Croatia found itself in 1990, the Constitution of 1990 and a couple of corresponding territorial laws which were passed by the end of 1992 (see below) centralised power and established a semi-presidential system. This system was modelled on the constitution of the Fifth French Republic and tailored to Franjo Tuđman’s objectives (Zakošek, 2002: 684). It stipulated a ‘unitary and indivisible’ (Article 1) Croatian state. Such a rule occasioned little surprise considering that for most of its history Croatia had been fragmented and subjected to various rulers. The introduction of this new constitution by the nationalists symbolised an attempt at ‘breaking’ with the country’s long tradition of non-unified political and territorial governance.

Before the first significant territorial-administrative reform of 1992 (see below), the Croatian state administration experienced a number of frequent and ill-conceived changes and reorganisations ‘characterised by political voluntarism’ (Koprić, 2009: 10). As one would expect, the frequency of such re-organisations was partly caused by the emergency conditions of war and the corresponding state-building imperatives of an authoritarian type. In this context, the strong municipalities inherited from the former republic apparatus ‘either became the central government’s obedient servants or established themselves as the focal points of a strong opposition, even resistance to the central government (almost all communes with Serbian majority)’ (ibid).

7.3.1. Territorial structuring of an authoritarian type and countervailing regionalist tendencies

Upon Croatia’s transition, local self-government comprised a fairly decentralised system of 102 municipalities, eleven inter-municipality communities and the City of Zagreb (Magaš, 2003: 137). The 1990 Constitution made no provision for the establishment of regional self-government. Yet, it did envisage the introduction of a two-tier local self-government system: the municipalities (općine) and towns (grad) were units of local self-government,

while counties (*županije*) were units of local self-government (Ivanišević, 2003: 22-23). In fact, the HDZ government wanted to replicate the democratic local self-government of Western Europe (particularly the old centralistic French model), but also structure the new territorial-administrative architecture around Croatia's historically rooted *županija* level of sub-national governance. Given the state of emergency, the constitutional Chapter VI 'Organization of Local Self-Government and Administration' was only implemented in 1992/3 through the Act on Local Self-Government and Administration (*Official Gazette*, No. 90/92) (Koprić and Marčetić, 2003: 238) and certain other territorial regulations³⁵ (Ivanišević et al. 2001). By 1993, Croatia had twenty counties, the City of Zagreb, 71 towns and 419 municipalities. The City of Zagreb, as the capital of the Republic of Croatia, was defined as a specific and unique territorial and self-government unit that had the status of both a town and a county (Ivanišević, 2003: 26-28).

Much like times past, the pattern of politicised and arbitrary sub-national segregation carried over into the post-communist period. This time, the nationalists, and President Tuđman in particular, had the upper hand. Thus, there was no political consensus among Croatia's political parties over the country's new territorial-administrative division. In fact, institutional arrangements were designed by the president himself and his advisory bodies, imposed on the HDZ-controlled government and parliament, which accordingly implemented the president's decisions 'without discussion' (Goldstein, 1999: 259). As for the transition losers, i.e., the parliamentary opposition, their policy input and power was extremely limited despite the fact that they succeeded in pushing for a proportional representation system at the sub-national level (Bartlett, 2003: 43). The proportional electoral system over time led to the development of a sort of partisan local self-government in Croatia in which national level political events took precedence over the particular local needs. In fact, due to the proportional dynamics of the electoral rules, opposition parties would gradually build their power bases first at the sub-national level. In this respect, over time the over-fragmentation of Croatia's territorial setup would in practice work in favour of the opposition parties (see below).

³⁵ The Law on the Area of Counties, Towns and Municipalities in the Republic of Croatia, the Law on the City of Zagreb and the Law on the Election of Members of Representative Bodies of the Units of Local Self-Government.

As regards the municipality level, broad criteria (based on rather arbitrary geographic, economic and historical factors) were drawn up, allowing that ‘communities, i.e., parts of municipalities, groups of villages or even single villages can claim municipal status or even a township’ (Kordej-De Villa et al. 2004: 627). In effect, the total number of municipalities mushroomed (quadrupling in comparison with the previous regime) (Koprić and Marčetić, 2003: 239). These municipalities often lacked the experience and ‘financial, human and organisational resources’ (Ivanišević, 2003: 24) to fulfil basic governing tasks. The outstanding number (21) of the counties and their ensuing irrational demarcation lacked a historical, social, cultural and/or economic rationale as well, let alone scientific input (Budak et al., 2004). Traditional macro-regions, such as Dalmatia and/or Slavonia, were fragmented into numerous counties and municipalities in an effort to ‘guarantee quarrels and political divisions between regionalist forces’ (Antulov, 2000: 3), as well as to ensure HDZ’s electoral advantage in local ballots. This tactic was, for example, successful in the case of Istria, where ‘the regionalist Istrian Democratic Assembly (IDS) confronted its Rijeka Democratic Alliance (RiDS) ally over the boundaries of the Istrian and Primorje-Rijeka Counties, which ultimately led to the dissolution of the 1992 coalition between the two parties’ (ibid).

Mainly because of this irrational and politicised territorial configuration, sub-national units depended to a large extent on state aid, ‘thus contributing to the strengthening of centralist tendencies in the Croatian administrative system’ (Ivanišević, 2003: 24). Most experts agree that the purpose of such territorial organisation was to ‘ensure the centralised management of public affairs’ (Antulov, 2000; Ivanišević, 2003: 21; Ivanišević et al. 2001; Blažević, 2003; Koprić and Marčetić, 2003). Indeed, alongside the country’s new territorial organisation, a massive ‘etatisation’ process was in operation in which a good deal of formerly devolved public and social welfare policies ‘were taken over by the central level’ (Koprić and Marčetić, 2003: 238). This was done mainly through the creation of numerous county administrative departments and state administrative branch and field offices at the sub-national level (Ivanišević et al. 2001: 203-204). Koprić (2007: 91) estimates that throughout the 1990s there were no less than ‘175 county administrative departments, with 779 of their branch offices in 107 towns and more than 7000 state civil servants and employees’. This gave the central government a strong tier of administrative control at the local level (Ivanišević et al. 2001).

The new system bestowed a key role on the county tier, which in practice acted as a *quasi*-regional supervisory agent of the Centre (Koprić and Marčetić, 2003: 239). The institutional position of the *Župan* (a kind of Prefect as in France) was of particular importance for the centralisation of the whole system (Rasić-Bakarić et al. 2007). In reality, the county prefect had two lines of accountability. On the one hand, he or she was officially the ‘representative of the State authority’ in the county and had to be confirmed by the Croatian President (Koprić, 2007: 91). S/he had a respectable command, personal, supervising and financial competences with reference to the performance of state administrative affairs at the local level. On the other hand, in the rather narrow self-government scope, the *Župan* was the chief of the county executive board and representative body (county assembly). In this context, his/her competencies were ‘mostly limited to co-ordination of activities between towns and communes whose scope was narrow, too’ (Koprić, 2007: 92). Overall, the 1992/3 territorial-administrative reform created a highly conflictual situation at the local level which was fuelled by the alternation in power of parties at the local level due to the proportional representation system.

In view of the country’s inherently strong regionalist dynamics, after winning independence in a bloody and complicated war and ‘being governed by a regime based on a rigid, virulent and authoritarian form of nationalism, Croatia seemed the country least suited to a transplant of regionalist ideas from the West’ (Antulov, 2000: 1). Yet, as Antulov further notes, ‘regionalism in Croatia managed not only to survive, but also to become a far more important political factor than in most post-Communist countries in the area’. Arguably, warfare played a crucial role in reproducing inherited inter-regional animosities and disparities across the country both in terms of physical damage (see below) and regional/local identity-building. In effect, the war, instead of unifying the nation, did quite the opposite as ‘[p]eople in many areas affected by the conflict began to resent the central authorities in Zagreb, convinced that they had neglected the defence of their particular region or had sent precious military resources elsewhere’ (ibid: 3). This was especially the case with the war-torn Slavonia and, to a somewhat lesser degree, Dalmatia.

Naturally, with the goal of national independence on the agenda, voices demanding a regionalist reconfiguration or even federalisation of Croatia ‘fell on deaf ears’ in the 1990 elections. The following elections, held in 1992 (for the House of Counties) and 1993 (for

local self-governments) respectively, ‘marked the emergence of regionalism as an important political factor’ (ibid). Earlier in 1989, numerous regional parties were established in a ‘top-down’ fashion with the IDS being Croatia’s most prominent regionalist party³⁶ (Bartlett, 2003: 44). Located in the multi-cultural and bilingual (Italian and Croatian) Istria peninsula, IDS portrayed itself as a ‘Western European political party’ claiming to bring both the region (Istria) and the country nearer to EU membership (Ashbrook, 2008). At the same time, the IDS voiced demands for a greater degree of autonomy and administrative decentralisation for Istria, requests which clashed with the highly centralised apparatus which the HDZ regime had setup during the war. The party’s outspoken criticism and mobilisation against HDZ’s monistic conception of the Croatian national identity and statehood soon matched the separatist Serbian People’s Party’s calls for a greater degree of regional decentralisation or federalisation seen ‘as a solution to the problem of the Krajina’ (Bartlett, 2003: 44). But with roughly one-third of national territory under Serbian control, Tuđman and the HDZ considered all suggestions for regional autonomy, and especially federalisation, ‘as bordering on treason’ (Cohen, 1997: 95). The argument employed by the nationalists in resisting such calls was quite straightforward and for many very reasonable: ‘Not only would the Krajina Serbs then have consolidated their independence from Zagreb, but, lurking in the wings, was the prospect that Istria might seek a closer relationship with Italy, whose possession it had been in the years between the two world wars’ (Bartlett, 2003: 44).

But despite the regime’s virulent attacks and manipulative tactics, regionalism was hardly extinguished during the second half of the 1990s. Regionalist parties (particularly the IDS) emerged as powerful forces in the 1995 national and local elections (Cohen, 1997: 108). More significantly, mainstream parties such as the social-liberals (HSL) and the former communists (SDP), though at first very sceptical, began to adopt regionalism as part of their political programmes following the end of warfare in 1995 (Antulov, 2000: 4). Indeed, with the national question successfully solved and the country territorially complete, regionalism was becoming a legitimate part of Croatian politics (ibid). Even in

³⁶ Other regionalist parties were the Dalmatian Action (DA) and Rijeka Democratic Alliance (RiDS).

Slavonia, the area most ravaged by the war and home to virulent forms of Croatian nationalism, the regionalist idea emerged through the Slavonija-Baranja Croatian Party (ibid). Significantly, the opposition forces would learn for the first time how to co-operate and build anti-HDZ coalitions at the local level (the county in particular) (Pusić, 1998; Fisher, 2006). These trends would soon spill over to the national level where two coalition groupings would be formed by the six main opposition parties. It was not an accident that the regional reorganisation of Croatia would be among the pre-electoral promises made by most of these parties (Antulov, 2000: 4).

The influence of 'Europe' on the development of Croatia's territorial-administrative apparatus was very weak during this period. As noted in Chapter 4, Tuđman's Croatia in the post-Dayton phase (1995-1999) was an isolated authoritarian state. Although in 1997 the HDZ government did ratify the European Charter of Local Self-Government as part of its obligations for entry to the CoE, Croatia's corresponding legislation would not be aligned with the principles and provisions of the Charter until after the regime change in 2000 (Koprić, 2003). An attempt was made in 1999 as a response to 'opening up' the state towards European regional organisations, but this was largely unsuccessful (Ivanišević et al. 2001). Thus, until the death of president Tuđman and the subsequent rise to power of the democratic opposition in 2000, Croatia would remain a highly centralised unitary state. Apart from the authoritarian tendencies of the ruling HDZ, fiscal indicators clearly support such a statement: In 1999, the share of revenues of local self-government GDP rates totalled 5.42 per cent, while the share in the total government budget revenues amounted to 10.32 per cent (Jurlina-Alibegović and Šišinački, 2004).

7.3.2. Responding to persisting regional disparities: A fragmentary and 'particularist' approach to regional development

Upon achieving its independence Croatia inherited a number of unfavourable features, such as disproportions in socio-economic development, depopulation, deterioration and regression of many parts of the country, poor transport and technological infrastructure, as well as lack of capital for restructuring. The 'Homeland War' further resulted in economic and social devastation of many parts of the country. Thus, the overall trend was one of the accentuation of existing regional disparities rather than containment.

In particular, the dissolution of the former Yugoslavian state and the establishment of several new independent states redefined all of Croatia's boundaries. Accordingly, a large number of municipalities and counties became border areas (45 per cent of all municipalities and 76 per cent of a total of 21 counties) (Pavlaković-Koči and Pejnović, 2005: 10). For some of them, the bloody collapse of Yugoslavia accentuated their traditional peripheral standing in relation to the 'centre', while for others it meant disruption of traditional economic ties with their natural hinterlands (e.g. the Sisak-Moslavina County, the Šibenik-Knin County, and the Brod-Posavina County). Furthermore, eight out of the sixteen border counties found themselves close to hostile neighbours and witnessed considerable damage during occupation or trans-border attacks (ibid).

Second, the regional structure of the GDP (RGDP) further indicates Croatia's striking regional disparities. In particular, as in most European states, the capital city was (and still remains) by far the strongest economic core. In 2003, per capita RGDP in Zagreb was 76.3 per cent above the national level (US\$ 4486 in 2001 rates) (Rašić-Bakarić et al. 2007: 82). Other counties with above-average RGDP per capita were the County of Istria (34.6 per cent above), as well as the County of Primorje-Gorski Kotar (Rijeka) (17.5 per cent above) (ibid). Per capita RGDP was below the national average in 17 of the 21 counties varying around 58 per cent of the national average. In fact, the county results pointed to the fact that Croatia's communist polycentric structure survived transition. Indeed, the north-western parts of the country with the traditionally most advanced and economically developed urban poles (Zagreb, Rijeka, Varaždin, and Pula) had the highest per capita RGDP.

Third, rising unemployment figures reveal also a growing development gap between counties. Following the demise of communism and the subsequent collapse of Yugoslavia, overall Croatian unemployment recorded a remarkable increase. But, aggregate unemployment and regional disparities grew sharply throughout the second half of the 1990s (cf. Bartlett, 2003). In 2001, the unemployment rate had reached twenty per cent, while an unemployment rate well above the national figure was recorded in ten counties, varying between 22.6 per cent in the County of Lika-Senj to 31.1 per cent in Sibenik-Knin (Rasić-Bakarić et al. 2007: 81).

As regards therefore the link between the country's outstanding disparities and regional development, one would expect a truly proactive RDP from the central government. But this was hardly the case in Tuđman's Croatia. Puljiz and Maleković (2007: 8) enumerate three main factors that allegedly rendered RDP a low salience issue under the HDZ governments. First, much like the other transition countries, the immediate need to stabilise the country's growing fiscal imbalances and hyper-inflationary trends preoccupied the government's economic agenda between 1990-1993, to the detriment of micro-economic issues (except for privatisation) (cf. Bartlett, 2003). Second, negative memories of communist rule and particularly, experiences with regional policy at that time, was probably one of the main reasons why the new state-builders and part of the academic community had little sympathy for such policy (Đokić et al. 2007: 159). Third, Croatia's new government pattern of strong centralisation and irrational regional mapping, under the pretext of war, suppressed any voices calling for either regional policy or regionalisation.

These points notwithstanding, well-off counties bordering on EU member states did show initiatives which might be connected to EU-related regional development or 'anticipatory Europeanisation' (cf. Ágh, 2003) in the first half of the 1990s. Among those forerunners, the County of Istria (bordering on Slovenia) was the best example (Koprić, 2007: 95). Because of its specific historical, political and demographic characteristics (see above), this county became a member of the Assembly of European Regions in 1994 (ibid). But, it should be noted that in the reporting period Croatia was excluded from the EU PHARE programme for reasons to do with Tuđman's authoritarian proclivities and military actions in Krajina (see Chapter 4). It could thus be argued that Croatia's exclusion from the PHARE programme negatively affected the development of its regional policy, considering that the other CEECs (Hungary, for instance) were enjoying technical advice and assistance in this policy field as early as 1992 as a result of their contractual relations with the Union (Hughes et al. 2004; Jacoby, 2004). Overall, in the first half of the 1990s there was nothing like a 'top-down' regional policy in Croatia (Kordej-De Villa et al. 2004: 626).

It would be misleading, however, to argue that no local development planning occurred in the early 1990s, especially when transition corresponded with war and humanitarian emergency. Đokić et al. (2007: 159) argue that given the lack of a national development

perspective, an ‘explosion of external agencies and [supranational and transnational] consultants [...] seeking to provide humanitarian relief and the provision of shelter led to two contradictory relationships with local politicians and policy makers’. One approach bypassed not only local authorities but even the central government and, in effect, established a ‘parallel system of support and infrastructure’ (see, also, Harrell-Bond, 1993). The second one, while working in unity with local politicians, limited partnership to a small circle of powerful politicians and utilised ‘connections’ to ensure that projects started on time and delivered their results, akin to a kind of ‘technocratic clientelism’. According to Kordej-De Villa et al (2004: 633), this ‘projectization’ trend of regional development ‘ironically contribute[d] to a lack of transparency in projects which they were, in fact, set up to challenge’. In short, most external donors (including the EU) began their activities in Croatia during the war, meaning that their involvement was primarily framed within a ‘humanitarian’ rather than a ‘developmental’ paradigm and was concentrated, in particular, on ‘war affected areas’ (ibid). This represented a kind of ‘implicit’ or ‘bottom-up’ RDP which produced some regrettable long-term consequences, including ‘unsustainable expectations of external cash injections’ (ibid: 632).

With the end of warfare in 1995, a very reluctant first shift in the government’s attitude towards regional policy occurred (Puljiz and Maleković, 2007). Yet, such a change was not directed by the recognised necessity to introduce a coherent nationwide RDP. Rather, it was driven initially by the negative exigencies of warfare and later by the country’s worsening economic stagnation. Particularly, given the vast physical damage caused by the war, reconstruction of the so-called ‘war-affected areas’ became the government’s immediate concern following the Dayton peace settlement. The 1996 *Act on Areas of State Special Concern* (AASSC; *Official Gazette*, No. 44/96) became Croatia’s first ‘regional’ legal measure aimed primarily at introducing incentives for the reconstruction of *particular* war-hit areas (Puljiz and Maleković, 2007). Parts of Croatia were marked accordingly as ‘laggards’, entitling them for state aid. Consequently, ‘regional policy’ was only about redistribution of funds between state budget and lagged regions. Significantly, in this law the designation criteria was primarily related to geography and whether a local unit or part of it had been occupied during the war (ibid: 9). Such a *micro*-geographical practice of state intervention disregarded the previously identified wide disparities at the county level, meaning that, in effect, no genuine RDP was in operation. Instead, development initiatives

of the counties, to the extent that these existed, were stand-alone, spontaneous and sporadic in nature. No county development agencies (CDAs) existed in the period in question (Kersan-Škabic, 2005). Again, the allocation of state aid was done through non-transparent channels and on the basis of clientelism and politicisation, favouring HDZ-loyal localities at the expense of anti-regime territorial units (such as the County of Istria) (interview with Đulabic Vedran). Predictably thus, the traditional pattern of interregional rivalries was fuelled by the regime's preferential treatment of some localities. Meanwhile, no monitoring or evaluation mechanisms were introduced. This resulted in a lack of transparency, lack of coordination and ineffectiveness of government aid (Fröhlich and Maleković, 2004: 3).

At the higher organisational level, the government's development agenda was primarily related to physical reconstruction. Accordingly, it fell under the Ministry of Physical Planning, Construction and Housing and the Ministry of Development and Restoration. Interviews reveal that given the 'state of emergency' and post-war reconstruction imperatives, regional development issues were seldom raised or discussed, let alone institutionally expressed, as a separate policy domain within these ministries (interview with Sanja Maleković). Thus, no separate regional policy government body was established during the second half of the 1990s. To an extent, regional development issues were addressed by the government, this was done traditionally through sector-specific initiatives of which RDP was merely a part. Moreover, the lack of an overall economic development strategy on the part of the HDZ government also hampered the elaboration of a coherent RDP framework throughout the 1990s (Maleković, 2000:2).

Despite some positive results in the reconstruction of housing stock and physical infrastructure, the AASSC's exclusive focus on formerly occupied and war-torn local areas meant, in effect, that the rest of the country was left out (Puljiz and Maleković, 2007). This gap was partly addressed in 1999 with the adoption of the *Islands Act* and the corresponding *National Island Development Programme* (NISP) (Starc, 1999). Experts claim that this second 'regional' development initiative represented the government's first concrete attempt to tackle growing regional disparities in a part of the country characterised by accentuated demographic and economic deterioration (Kordej-De Villa et al. 2004: 629). In contrast with the AASSC, the drafting of the Islands Act/NISP was based

on extensive research and academic input. The academic input in turn reflected European regional policy thresholds, such as those related to programming and monitoring (ibid). This meant that, at least at the cognitive level, ‘Europeanisation’ had penetrated the government’s RDP discourse well in advance the country’s association with the EU in 2001. This finding is further corroborated by a second regional policy government-sponsored initiative, namely the elaboration of the *Concept of Regional Economic Development* (CRED). According to CRED, counties should be in charge of regional policy (Fröhlich, 1999: 163, 201-203). But, as matters played out, neither the Island Act and the corresponding NIDP nor the CRED were implemented in the reporting period. This gap between rhetoric and reality existed in large part because of a lack of administrative capacity and political will on the part of the outgoing HDZ government (Kordej-De Villa et al. 2004: 629-30).

7.4. An EU model of decentralisation and regional policy?

In simple terms, EU Cohesion Policy aims at promoting the development of underprivileged regions and localities within Europe in the context of market integration (Bache, 2007: 239). Cohesion Policy and its financial instruments, the structural and cohesion funds, constitute the second most expensive element of the EU’s budget, trailing behind only the Common Agriculture Policy. For example, in the 2007-2013 period, Cohesion Policy accounted for 35.7 per cent of the total EU budget or €347.41 billion (DG Regio). Seemingly, structural and cohesion funds represent a very lucrative financial incentive, especially for poor European countries notorious for their wide regional disparities and uneven growth. Croatian elites have long anticipated help from the structural funds, given the country’s outstanding regional disparities. In 2010, the European Commission proposed setting aside some EUR 3.5 billion of regional, agriculture and administrative aid for Croatia over the first two years of the country’s EU membership, provided it joins the Union in 2012 (*Reuters*, 13/09/2009).

Although the structural funds have been around since the mid-1970s, cohesion policy became more important in the late 1980s with the integration of Greece, Portugal and

Spain in the EC (Bache, 2007: 239). The NUTS statistical classification system of Eurostat has been an important tool for the European Commission in its endeavours to shape and standardise regional policy throughout Europe. It consists of five levels. The NUTS 2 level is the crucial one for the dispersion of structural monies. It provides not only the statistical information and analysis for regional development planning and programmes, but, equally importantly, it defines the administrative tier at which structural funds are managed (Hughes et al. 2004: 75). Though the existing NUTS 2 regions in the EU were drawn up independently (largely on the basis of designations arrived at by individual member states and subsequently approved *pro-forma* by Brussels), the conditionality in the context of eastward enlargements of the EU has allowed the European Commission to intervene directly in the designation of NUTS regionalisation in the CEECs (ibid: 76).

In terms of structural funds, these doubled within a few years and new principles governing structural policy were introduced. They are: *concentration* of funds on areas of most need; *additionality* so that EU funds are spend in addition to planned national spending; *programming* capacity in which multiannual and multitask development plans are favoured over uncoordinated or *ad hoc* projects; and, most notably, *partnership* between the European Commission and the ‘appropriate authorities’ at the different territorial levels (national, regional, and local), as well as at every stage from preparation to implementation and monitoring (Allen, 2000: 254-60). Since its introduction in the late 1980s and further enhancement in 1998, the partnership principle has sparked extensive academic and practitioner collaboration because of the importance it places on extending (including that of non-state actors such as non-governmental organisations, trade unions, environmental groups etc.) in the formulation and implementation of national programmes. Indeed, this principle ‘gave subnational governments a formal role in the EC policy process for the first time’ (Bache, 2007: 239). The complex pattern of interaction linking sub-national actors to the EU is best captured by the concept of ‘multi-level governance’, which Gary Marks (1993: 392) defined as: ‘a system of continuous negotiation among nested governments at several territorial tiers – supranational, national, and local – as a result of the broad process of institutional creation and decisional re-allocation that has pulled some previously centralised functions of the state up to the supranational level and some to the local/regional level’.

But while the 1989 reforms stimulated a vibrant discussion regarding the ‘hollowing out’ (cf. Rhodes, 1994) of the state both from above (supranational) and below (sub-national), the late 1990s have seen a ‘partial renationalisation’ (Jacoby, 2004: 79), as member states generally limited both the European Commission and their own sub-national governments (Bache, 1999; Bache and Jones, 2000). Indeed, the EU’s impact, though notable, has been felt very differently across Europe, reflecting on the one hand ‘pre-existing variations in the territorial distribution of power’ (Kassim, 2005: 304) and, on the other, the striking absence of a ‘regional *acquis*’ on the part of the EU (cf. Hughes et al. 2004). Indeed, much like in the case of public administration (see Chapter 5), the EU lacks a ‘thick’ regional policy and/or regionalisation *acquis*, meaning that the European Commission has no legal competence to prescribe a specific institutional RDP model, including a territorial-administrative template. In fact, the Framework Regulation on the Structural Funds (the main instrument guiding EU regional policy) has limited legal effect as it does not require transposition into national legislation. Actually, the implementation of RDP and a country’s spatial and institutional organisation lies with national governments themselves.

The divergent systems of sub-national organisation within the EU and the absence of explicit institutional requisites are reflected in negotiating Chapter 22 on ‘Regional Policy and Co-ordination of Structural Instruments’, which, according to Hughes et al. (2004: 68, 73-76), is one of the ‘thinnest parts of the *acquis* as organized for the enlargement negotiations’. To comply with Chapter 22, Croatia was required to have in place an ‘appropriate legal framework’ to implement the specific provisions of the cohesion policy, and agree on a NUTS territorial classification with the European Commission (via Eurostat) (ibid: 73). Given the generally poor state capacity of ‘Western Balkans’ (including Croatia), in 2000 the European Commission introduced the CARDS instrument which aimed at ‘institution-building’ in the area of RDP and territorial governance. In Croatia, CARDS projects targeted two key areas in this field: i) decentralisation from the national and to the local level; and ii) the development and implementation of regional policy. In terms of decentralisation, local and regional structures must be capable of delivering the services under their jurisdiction. A key component of the CARDS *Country Strategy Paper 2002-2006* was to provide assistance in this process.

Turning to RDP, the development and implementation of a national strategy for regional and local development (hereafter NSRD) together with drafting special legislation (the Regional Development Act; hereafter RDA) and the establishment of the institutional structures necessary to support strategic planning at national, regional, and local levels were articulated as clear commitments of the EU in its contractual relationship with Croatia (European Commission, 2002b: 29). After receiving the status of a candidate state in 2004, Croatia became eligible for the PHARE, ISPA and SAPARD pre-accession programmes. As noted in Chapter 4, these programmes were replaced in 2007 by IPA for the 2007-2013 period. This chapter concentrates mainly on the CARDS track.

Overall, although the EU is hesitant to specify how member states should configure sub-national governments and organise their regional development, both its functional demands and its administrative procedures do ‘generate a web of requirements and quasi-requirements that tend to require real administrative competence at the sub-national level’ (Jacoby, 2004: 80). This is not to suggest that the European Commission sought to impose an explicit institutional model on Croatia. Rather, the EU structural policy conditionality may have prompted territorial adaptations as well as the introduction of a coherent and integrated RDP in line with EU thresholds. The extent of change or ‘institution-building’ is addressed in detail in the following sections.

7.5. The Association phase, 2000-2005

The outgoing HDZ government laid the foundations for a fragmentary approach towards RDP at the late 1990s. Its legal and institutional remedies lacked a nationwide strategic vision, represented isolated and *ad hoc* responses aimed exclusively at alleviating growing developmental gaps in particular parts of the country. It thus failed to ensure the necessary synergies at both the central and local level. The question of the country’s optimal territorial setup was pending as well. Upon accession in office of the democratic government of Ivica Račan in February 2000, these two closely related domains eventually emerged at the core of the new government’s reform agenda, largely due to the country’s extremely challenging new foreign policy vision: *European integration*.

7.5.1. Territorial re-structuring: Lame-duck decentralisation and path dependence

Far more than the RDP issue (see below), Croatia’s decentralisation qua regionalisation was one of the immediate concerns of the new government (Government Programme,

2000-2004). Apart from the new administration's natural predisposition to undo Tuđman's legacies, most notably centralisation, the inclusion of the regionalist IDS in government (and ensuing adoption of the EU portfolio) naturally precipitated strong pressures for regionalisation and adherence to the European principle of subsidiarity.

Subsequently, the 2001 constitutional package abolished the House of Counties in the *Sabor* as a parochial institution. Second, the 2001 Local and Regional Self-Government Act (LRSGA; *Official Gazette*, No. 33/01) redefined counties as units of regional self-government, while towns and municipalities remained units of local self-government (Rasić-Bakarić et al. 2007: 77). In fact, the administrative-territorial division of the country changed little as the government chose to 'acquiesce to the [previous] institutional status quo' (cf. Pierson, 2004: 156). Instead, the former *quasi*-regional counties were just 'converted' (cf. Thelen, 2003) to 'regional' units with Croatia remaining a unitary state. Three main factors account for this lack of change.

First, regionalisation lost momentum as the government was soon confronted with internal friction threatening its very viability. Indeed, the very first 'blow' to government stability related to the question of regional autonomy and decentralisation. In April 2001, the Istrian county assembly approved legislation giving the peninsula autonomy within Croatia and making Italian an official second language in the region, where ethnic Italians make about eight per cent of the population (Ashbrook, 2008). This move sparked much criticism on the part of SDP and HSLŠ, as it was interpreted as a clear attempt at separatism. Thus, regionalisation would only take place *within* the existing territorial-administrative divisions. This development together with the government's economic policy prompted the defection of IDS in the summer 2001 (Bartlett, 2003: 60).

Second, on the national level, except for the IDS, LS and other weaker minority parties, no political party (including the opposition HDZ) was in favour of genuine regionalisation (i.e., merging 21 counties into, say, five or six macro-regions) largely because they got used of the existing setup. This allegedly provided them with electoral gains at the sub-national level for the first time since 1995, and reflecting the theoretical premises of path-dependency more generally, these parties naturally became hesitant to forgo these perceived benefits. More concretely, the inherited system of 21 counties allowed each of

Croatia's parliamentary parties to gain strong hold and organisational expression at the regional level, privileging a pluralisation of the executive authority implied by an excessively fragmented territorial system such as that of Croatia, rather than a greater centralisation of power that a more rational regional setup would most likely entail (interview with Mimica Neven; former Minister of European Integration). In short, local and regional power dispersion between most political parties was at stake.

Third, from below, local and regional actors also did not seem to favour the country's optimal division on the grounds that such radical action would have entailed the immediate loss of their power bases. In fact, for most of the sub-national actors regionalisation started with the constitutional recognition of their right to self-government and ended with the governmental acknowledgment of their existing territorial-administrative borders. The results of the sub-national elections in May 2001 which were disappointing for the ruling coalition (Bartlett, 2003: 61) did not favour any further moves towards regionalisation either.

More can be said about administrative decentralisation. The 2000 constitutional amendments marked the beginning of the decentralisation process. Following the enactment of the 2001 LRSGA and the entrenchment of the subsidiarity principle within it, a clear separation of the previous dual functions of counties (national and regional) took place, leaving the *Župan* now just the county executive functionary responsible only to his/her county assembly (Koprić, 2007). Meanwhile, in view of the country's rapidly shifting relationship with European regional organisations the democratic government 'broke with' past practices and began to harmonise the relevant provisions of the domestic law with the European Charter on Local Self-Government more than three years after its ratification (Koprić and Marčetić, 2003: 240). Moreover, in connection with the IMF-World Bank public expenditure containment conditionality (see Chapter 5), the rationalisation of the country's sub-national administrative edifice was brought about through a radical reduction of the number of both local civil servants/employees (from 7000 to less than 4500) and state administrative offices (from 8/10 to 1 in each county) (Koprić, 2007: 92). The degree of centralisation was further reduced (yet it did not vanish) by the devolution of a number of public affairs to Croatia's new two-tier sub-national

apparatus. As a part of the first phase of the decentralisation process, 32 local and all regional self-government units gained greater jurisdiction over education, health service, culture, and social welfare, for which they also receive fiscal support through the equalisation funds (Rašić-Bakarić et al., 2007: 79).

However, most experts agree that decentralisation was carried out in an unplanned, hasty and uncoordinated manner (Perko-Šeparović et al. 2003; Antić, 2002; Kordej-De Villa et al. 2004). In practice, even certain resistance was observed. At the national level, decentralisation was not properly devised and executed because the responsible ministry (MoJALSG) lacked adequate administrative and staffing capacity and it was at the same time overburdened with two other major reforms (Justice and PAR; see Chapters 5 and 6). The lack of administrative capacity was accordingly reflected in the absence of supporting documents that would secure the successful implementation of the decentralisation process. Above all, in the reporting period Croatia was still missing a national spatial/regional development strategy (see below) through which the directions of its future regional development would be indicated. Thus, the decentralisation process began ‘without analytical and strategic support of the administration’ (Kordej-De Villa et al. 2004: 636).

On the local level, decentralisation was not widely welcomed for several reasons. Kordej-De Villa et al. (2004: 636) enumerate a number of them. First, local administrators did not have sufficient human and institutional capacity, enabling them to execute new requirements (cf. Perko-Šeparović et al. 2003). Second, a deconcentration of responsibilities was not followed by adequate fiscal decentralisation for all local units. In the reporting period (2000-2003), subsidies and grants consisted of eight per cent of the total revenues of all local budgets, which leads to the conclusion that the institutional pattern of ‘state-dependency’ carried over into the 2000s (Budak et al. 2004). Third, there was no clear division of functions among different levels of government because of non-transparent and unclear regulations governing the area of competence of local units (cf. Ott and Bajo, 2002: 107-22).

Regarding EU influences, the extent that European regional principles (e.g., subsidiarity) were legally and constitutionally entrenched was primarily a result of voluntary harmonisation of national legislation with the European Charter by governing elites, since no direct pressure for regionalisation was exerted on the government when it negotiated the SAA in 2000/1 (interview with Mimica Neven; former Minister of European Integration). This is further corroborated by the fact that none of the three SAP reports (2001, 2002, and 2003) made any reference to the country's territorial-administrative division. Although there was a temporal correlation between the regional and decentralisation reforms and the negotiation of SAA, this hardly accounts for causation. It seems therefore that the 2000/1 reforms owe more to indigenous dynamics (i.e., 'de-Tudmanisation'), rather than to any direct EU pressures.

7.5.2. Regional Development Policy: Policy confusion, institutional jungle and an enduring fragmentary approach to regional policy-making

Following the regime change in early 2000 and the subsequent speedy integration of Croatia into global organisations, a growing number of foreign actors (including the EU) began their interventions in the field of regional development. It should be noted these activities were now framed within a 'developmental' rather than 'humanitarian' or 'reconstruction' paradigm (Hauser, 2003). Soon, pilot projects targeting local and regional development began to be implemented. The World Bank and USAID tended to focus on local development at the municipal and city levels (Kordej-De Villa et al. 2004: 633). Long term co-operation between the German agency *Deutsche Gesellschaft für Technische Zusammenarbeit* and the Institute of Economics in Zagreb sought to introduce a strategic dimension to local development planning, gaining wider acceptance over time (Đokić et al. 2007: 162-66). In terms of institution-building at the local level, the joint EU-UNDP programme *for Economic Revitalisation of Croatia's war-affected areas* established four local economic development agencies³⁷ (LEDAs) (Puljiz, 2003).

These local initiatives soon paralleled a number of developmental projects and institution-building efforts at the regional (county) level. Certain counties (most notably those with

³⁷ LEDAS were established in Drnis (2000), Okucani (2000), Sisak (2001) and Vukovar (2001).

adequate administrative, staffing and financial capacity) showed enthusiasm in tracing, encouraging and assisting regional development initiatives. Not surprisingly perhaps, the County of Istria was the first Croatian region to establish a 'regional development agency' (IDA) in 2000 (Koprić, 2007: 96). Such spontaneous regional initiatives soon matched EU-sponsored projects. In particular, the European Commission started a CARDS-financed pilot project for two counties: Zadar and Šibenik. This project was instrumental in building capacity and know-how on EU regional policy-making (most notably, on programming, partnership and project management principles) through the elaboration of the first of their kind *Regional Operational Programmes* (ROPs) (Puljiz and Maleković, 2007: 15). Soon, other counties started elaborating their own ROPs drawing lessons from their most-advanced counterparts. At the same time, the end of the country's (economic and political) isolation in 2000 resulted in Croatia's growing global and regional integration wherein Croatian regions found that they were astonishingly incapable of sustaining competitive pressures. Thus, inter-county and inter-municipal cooperation seemed a significant first step towards building cohesion at the sub-national level (interview with Vidaković Marta; Secretary of the Croatian Association of Counties). The 'Association of Counties' (AoC) and the 'Association of Towns and Municipalities' (AoTM) were established accordingly.

But throughout Račan's premiership (2000-2003), these 'bottom-up' initiatives were not integrated within a coherent nationwide strategic development programme in the field of RDP. Despite the increasing efforts of a part of the Croatian academic community and some interest groups such as NGOs and the National Competitiveness Council (NCC) to persuade policy-makers of the importance of a strategic nationwide RDP framework in view of the deepening regional disparities and explosive unemployment rates (Maleković, 2000), the government's focus remained stubbornly on physical (re)construction and public works. Regional development was tackled through multiple sectoral/legal measures and institutions (Kersan-Škabić, 2005). In fact, RDP, much like times past, remained 'weak, fragmented, old fashioned, mainly reactive and characterised by politicisation, predominant geographical categorisation, and a sort of chaotic misunderstanding' (Koprić, 2007: 96).

More precisely, at the institutional level, Croatia's national regional development scene would soon resemble what Hauser (2003) called an 'institutional jungle', as a vast array of

new agencies (often with the backing of foreign actors) would vie for position, influence, and mandate, alongside more 'traditional' actors such as ministries, counties and municipalities (Kordej-De Villa, 2004: 635; Fröhlich, 2006). Thus, parallel to the Ministry for Public Works, Reconstructions and Construction (MPWRC) and Ministry of Small and Medium Enterprises the RDP sector also included the following agencies: the four LEDAs, the Fund for Regional Development, the Fund for Environmental Protections and Energy Efficiency, the Fund for Development and Employment and the Fund for the Reconstruction and Development of the City of Vukovar. Koprić (2007: 97) notes these funds have limited competences and mainly function as 'pure (financial) instruments in the hands of the Government'. Most significantly, no formal horizontal or vertical co-ordination instruments were established to streamline their activities. Thus, 'sectoralism' and a certain degree of policy distortion and confusion would continue to inform governmental (and sub-national) growth initiatives (Kordej-De Villa et al. 2004: 635).

On the legislative side, the strong 'bottom-up' pressures for extending the coverage of state aid to areas beyond those covered by the existing AASSC and Islands Act resulted in the 'layering' (cf. Thelen, 2003) of two additional 'regional acts' in 2002: the *Hilly and Mountainous Areas Act* (HMAA) and the special *City of Vukovar Reconstruction Act*. Significantly, much like their predecessors, the new governing elites used non-transparent, political and non-optimal criteria in selecting the new 'supported areas' (Koprić, 2007: 98). This is particularly evident in the case of the HMAA where the majority of underdeveloped units are located in the country's two wealthiest counties, such as Istria and Primorje-Gorski Kotar (Puljiz and Maleković, 2007: 10). Considering that both the ruling SDP and IDS had their strongholds in these two counties, such preferential categorisation was scarcely surprising. In effect, the traditional micro-geographical and fragmentary approach to sub-national development carried over into 2000s. Low-level development continued thus in sharp contrast with the existence of significant regional disparities (ibid: 21).

In response to this fragmentary and ineffective approach to regional development, the European Commission started a number of pilot projects at the national level aimed at preparing the ground for RDP reform. It should be noted that at the time the European Commission lacked the structural policy leverage of negotiating Chapter 22 and thus relied mainly on 'soft' instruments of conditionality (money and technical advice) (cf. Grabbe,

2006). Thus, Croatian authorities were assisted by one OBNOVA-financed project (2000) in formulating an RDP concept and two CARDS-financed projects (2001; 2003) in building institutional capacity for regional development strategic planning at the central level. For Sanja Maleković all these projects were instrumental in ‘raising awareness’ of the importance of RDP at the central level. Particularly, these projects were instrumental in pushing the MPWRC to take on the overall responsibility of RDP as late as March 2003 (European Commission, 2004: 100). Accordingly, the Ministry’s Directorate for Island and Regional Development gained the mandate of dealing with regional development issues of certain territories. But, as matters played out, neither of these projects succeeded in making governing elites adopt concrete RDP institutional and legal measures in the reporting period. This was largely because of the government’s continued weak administrative capacities, as well as a lack of integrated political leadership. In response, in late 2003 the European Commission started a new CARDS-financed project (see below).

7.6. The Accession phase, 2005-2010

7.6.1. Croatian NUTS 2 Regions: Statistical regionalisation and path-dependent decentralisation

The decentralisation reform was stalled by the leftist governing coalition of PM Račan which was in power from 2000 to 2003. Soon after assuming power in late 2003, the first Sanader government declared PAR, including decentralisation, one of its immediate priorities creating thus the CSOA (see Chapter 5).

In September 2004, the CSOA submitted to the government a ‘Programme Proposal for Decentralisation of State Administration Activities for the 2004-2007 period’ which prescribed the transferral of certain state administration duties to local units, as well as the corresponding fiscal decentralisation (Croatian Government, 2005: 298). This time, the renewed debate over decentralisation coincided with the European Commission’s increased interest in PAR. The European Commission’s *Opinion* (2004: 16) remarked that: ‘The development of local government is still under way. Decentralisation foreseen in the Government programme 2000-04 has been slower than originally foreseen and should be speeded up [...] The financial situation, albeit regulated by the Act on Financing Local Government, should be better clarified’.

Apparently in response to perceived pressures from the European Commission, in December 2004, the government adopted the said programme proposal for decentralisation and founded the Decentralisation Committee (within the CSOA), tasked with implementing the programme (Croatian Government, 2006: 368). The European Commission earmarked a special CARDS project to support the decentralisation process. In 2005, the government adopted the Act on Amendments to the Act on Local and Regional Self-Government (*Official Gazette*, No. 129/05) which regulated the further decentralisation of state administrative activities and strengthening of local units, primarily in big towns, but also counties (ibid: 369). In effect, these amendments further segregated the already highly fragmentary local tier through the introduction of a new local layer: 'large town' (Rašić-Bakarić et al. 2007). Accordingly, in addition to the existing 571 local units, 25 'large towns' got new devolved responsibilities which, however, have thus far been 'poorly implemented' because they 'ha[ve] not been followed by the [analogous] strengthening of financial capacities' (Koprić, 2009: 18). Out of fear that the local units would not be able to utilize public resources optimally, the government, owing also to its limited fiscal capacity, withheld certain grants (Palarić, 2006: 90). In this respect, local units remained heavily state-dependent (cf. Jurlina-Alibegovic, 2007). In addition, the 2005 local reforms failed to address the key issue of clarity and transparency with regard to elections and forming of governments at the local level – a persistent issue in the European Commission's subsequent progress reports (European Commission, 2006a, 2007, and 2008a).

Throughout the 2005-2007 period the decentralisation process was largely put on hold. Apart from the evident lack of political will on the part of the Sanader government (Koprić, 2009), the very fact that the CSOA was, as noted in Chapters 5 and 6, also responsible for carrying out other objectives of the PAR (e.g., civil service, GAPA etc.) and was itself poorly staffed adversely affected the whole process. In response, the European Commission financed two new CARDS projects (2006 and 2008) in order to strengthen the capacity for administrative and fiscal decentralisation and assist the CSOA in developing a decentralisation strategy. Meanwhile, the European Commission tried to clarify what would constitute compliance with its decentralisation thresholds. For instance,

in a workshop on ‘Decentralisation and Service Delivery’ held in Zagreb on 23 January 2006, through its local representative (head of EU Delegation) the European Commission, while reiterating that the ‘EU does not have preference for a specific decentralisation model’, emphasised the ‘establishment of a coherent legal framework, a more functional administrative structure, improvement of transparency and accountability of local authorities, clear assignment of responsibilities, adoption of the expected decentralisation strategy’ (Degert, 2006: 77). Significantly, in the same workshop, the President of the Croatian Association of Towns and Municipalities, Vojko Obersnel, making use of the opportunity provided by the accession process, requested the government to accept all provisions of the European Charter of Local Self-Government, bring into accord the decentralisation of functions and fiscal decentralisation, enact the Local Self-Government and Employees Act, introduce the Local Self-Government Academy and establish the direct appointment of heads of local and regional self-government units (Obersnel, 2006: 95).

Under European pressure, the second Sanader government (2008-2009) continued to pursue PAR (including decentralisation), albeit at a reluctant pace (see Chapters 5 and 6). At the sub-national level, crucial improvements in the legal frameworks pertaining to local elections and the statutory position of sub-national functionaries and civil servants/employees were recorded. First, new legislation on local and regional self-government was introduced in late 2007, involving crucial changes in their institutional set-up, such as the direct election of mayors and county prefects (as of the May 2009 elections). Second, the long-awaited Civil Service Employees in Local and Regional Self-Government Act was adopted in July 2008 (SIGMA, 2009: 5). Despite these legal remedies, the 2009 SIGMA report (2009: 6) concluded that ‘The Croatian system of public administration seems to remain highly centralised in terms of both concentration of decision-making capacity at the highest levels of individual state administration authorities and division of responsibilities between the state administration and local and regional self-governments’. Indeed, the EU-sponsored *National Strategy for the Functional and Fiscal Decentralisation and Development of Human Resources*, developed in the meantime, has not yet been adopted by the government ‘due to a lack of engagement at the political level’ (European Commission, 2009a: 8). While the European Commission made reference to

this poor state of affairs in its 2009 progress report, it failed, however, to explicitly require PM Kosor's cabinet to endorse the decentralisation strategy.

At the time of writing (September 2010), the strategy is still pending adoption. In fact, the 2008/9 global financial crisis has severely affected the implementation of the *SARS 2008-2011* (part of which is the process of administrative decentralisation), due to severe fiscal cuts imposed by the Kosor government in an effort to reduce the country's high foreign debt and government budget deficit. Two other co-related factors appear to have considerably delayed the adoption of the decentralisation strategy. First, the strategy lacks an 'operationalisable action plan for implementation' (interview K. M.; Ministry of Administration). Second, though there is wide political consensus on the need for further decentralisation and territorial re-structuring, there is still disagreement over the direction and depth of changes at the sub-national level across the political spectrum, including within the government itself. In fact, without the prior reorganisation of the municipalities/counties system, the decentralisation strategy cannot be adopted (interview M.V.; Croatian Government). To that end, in July 2009, PM Kosor mandated the Ministry of Administration with developing a reform plan on the reorganisation of the sub-national governments and the re-grouping of counties into large regions. In this respect, the global financial crisis appears to have ambiguous effects on the country's state administration re-structuring as it may also turn out to be the primary motivating factor driving territorial reforms where earlier internal dynamics and the 'Europeanisation' process failed.

The weak legal leverage on administrative reforms sharply contrasted with the European Commission's clear and *acquis*-based NUTS standardisation requirements. Much like for the new EU entrants, conditionality allowed the European Commission to interfere directly in the designation of NUTS regionalisation in Croatia. Again, reflecting the European Commission's lack of 'model of regionalisation' (Hughes et al. 2004) and corresponding preference for a centralised management of structural funds the Sanader governments were well-suited to resist all voices calling for a genuine administrative-statistical regionalisation in the country³⁸. Therefore, the NUTS reform will take place without

³⁸ Regionalist parties such as the IDS and the Slavonia-based HDSSB continue to privilege the country's regionalisation; yet they are very weak at the national level.

changing the country's territorial-administrative map. While the government tried in many respects to manipulate the NUTS system to maximise funding opportunities, its attempts were rejected by the European Commission.

Overall, there were four government proposals to Eurostat regarding the country's NUTS 2 division. Following long delays on the part of Croatia, the first proposal (delivered in 2004), envisioned the formation of five NUTS 2 regions, but it was rejected. The next proposal was sent to Eurostat in 2005 and suggested Croatia was divided into four units with the capital city qualifying as a separate NUTS 2 region. Significantly, this proposal was accepted by Brussels, but it was politically unacceptable for the Sanader government and therefore prompted the dismissal of the Central Bureau of Statistics' director in charge of this proposal³⁹. The third proposal suggested the country be divided into three NUTS 2 regions, with Zagreb constituting a separate unit. Again this proposal was not accepted by Eurostat on the simple grounds that Zagreb did not satisfy the population size threshold (the minimum of 800,000 inhabitants; interview with Puljitz Jaksa). The fourth proposal was designed by the Faculty of Economics in Split and once again suggested the division of the country into three NUTS 2 units, albeit with Zagreb incorporated in the North-Western grouping. This proposal was approved by Eurostat in May 2007 (*Official Gazette*, No. 35/07).

The whole country is set as a NUTS 1 unit, whereas the NUTS 3 includes all 21 counties as they were deemed by the European Commission to be 'too small and too many' to qualify as European regions. Finally, statistical units on NUTS 2 level represent three non-administrative units that have originated from grouping counties as lower level administrative units: 'North-west Croatia' with six counties, 'Panonia Croatia' with eight counties and 'Adriatic Croatia' with seven counties. None of these NUTS 2 regions surmounts the threshold of 75 per cent of the average GDP in the EU; thus, the country as a whole qualifies for Objective 1.

7.6.2. Building a nationwide regional policy: EU incentives and hesitant national responses

³⁹ In fact, the 2005 proposal was delivered to Eurostat without the government's consent and was used by the parliamentary opposition as an instrument of a political bargain (Trnski, 2009:197).

The EU began to use RDP thresholds in earnest at the time of the European Commission's Opinion in 2004, and each subsequent regular report European/Accession Partnerships contained a multitude of such thresholds. In particular, the European Commission asked for a clear institutional and administrative structure for RDP ensuring the following: inter-ministerial coordination and a single partnership structure, the adoption of a multi-annual budget programming, the establishment of NUTS regions, the harmonisation of the existing fragmentary institutional and legislative RDP framework with EU legislation, the adoption of a national development plan (NDP) in accordance with EU cohesion policy thresholds, the adoption of a special RDA and a corresponding NSRD, and the separation of management and monitoring structures (European Commission, 2004: 99-100; 2008). In placing strong emphasis on the matter, the European Commission stressed that the domain of RDP would represent one of the most challenging negotiation chapters for the country (ibid: 119). In this respect, both opening and closing benchmarks were to be set for Chapter 22 reducing somewhat the inherent uncertainty (cf. Hughes et al. 2004) informing this 'thin' field of the *acquis*. At the same time, voices located in the country's economic institutes and faculties, as well as other non-state actors would use the external leverage provided by the enlargement process to persuade the governing elites of the necessity of a nationwide strategic and legal framework pertaining to RDP. In fact, they would strongly point to the existing 'misfit' between the fragmentary and sector-oriented national RDP practices and the EU cohesion policy thresholds, cautioning that 'Croatia could end up having two parallel systems of supporting regional development based on entirely different logic and practice' (Puljiz and Maleković, 2007: 16).

Throughout its first mandate (2004-2007), the Sanader government made some important, though very reluctant, steps regarding compliance with EU RDP thresholds. On the organisational level, the government transferred the 'Development' sector from the previous MPWRC to the newly founded Ministry of Sea, Tourism, Transport and Development (MSTTD). Within this ministry a compartmentalisation of the 'Development' sector was brought about with the newly founded Directorate of Islands falling within the remit of the *Sea* division (largely an institutional response to the existing Islands Act) and the Directorate of Integrated Regional Development (DIRD) placed within the *Development* division. Largely in response to EU advice, DIRD was put in

charge of managing national RDP at the central level. The process of staffing the DIRD would, however, be quite a protracted exercise as DIRD's weak administrative capacity would prove a severe obstacle to the harmonisation of Croatia's RDP with EU principles throughout the accession phase⁴⁰.

For the purpose of ensuring efficient management of pre-accession instruments (PHARE, ISPA, SAPARD and IPA since 2007) and future EU funds, in September 2004 the government established the National Fund within the MoF (Croatian Government, 2005: 423). Following accession, the government indicated the National Fund would take over the function of Certifying Authority. In 2006, the management responsibility for pre-accession instruments (including IPA) and future structural funds was transferred from the MFAEI to the existing Central State Office for Development Strategy, which was now named the Central Office for Development Strategy and Coordination of EU Funds (CODEF). CODEF⁴¹ was established as a task-specific government agency independent of any government department and answerable directly to the Prime Minister's Office. Indeed, in response to the European Commission's 2004 and 2005 critical progress reports, CODEF was made the leading institution (the National Coordinator) in the accession negotiations on regional policy and the coordination of structural instruments (including IPA). At the same time, the government assured the European Commission that post-accession CODEF would provide continuity in the management of EU funds within Croatia, signalling thus 'that the government understood the importance of effective organisation for EU funding' (Bache et al. 2009: 15). Thus, the government opted for an exclusive centralised management approach with the recently created (yet still lacking legal status) NUTS 2 regions being by-passed (Puljiz and Maleković, 2007: 16).

From the point of view of programming, in 2006, CODEF under EU CARDS technical and financial support coordinated the elaboration of a *Strategic Development Framework for*

⁴⁰Given the limited number of staff and the fact that several experienced people had recently left the DIRD, there was much pressure on the remaining experienced personnel to cope with day-to-day activities, leaving too little time to manage and train younger colleagues and to prepare strategies, including the NSRD (interview with David Aldworth, DIRD).

⁴¹ The CODEF currently consists of three departments, each headed by a Deputy State Secretary, and eleven sections. By the late 2009, the CODEF employed 50 persons in total, of whom 30 were concerned with EU funds programming and management (Trnski, 2009: 194).

2006-2013 through the inter-ministerial coordination working group and began preparations for the identification of future operational structures for the implementation of the IPA in accordance with the Chapter 22 'opening benchmark'. This overarching national development planning document paralleled the *Strategic Coherence Framework* (SCF), a document mandated by the European Commission as a precursor to the *National Strategic Reference Framework* (NSRF) under the structural funds. Drafting was based on inter-ministerial cooperation and the consultation of an appropriate number of partners from the non-government sector. In June 2008, the government adopted the Decision on strategic and institutional framework for the utilisation of EU Structural Instruments in Croatia (*Official Gazette*, No. 77/2008).

Significantly, the government indicated that the IPA operational structure will evolve into the structural funds management structure, thus assuring functional continuity and efficiency post-accession. CODEF also complemented the NSRF with respect to the *Operational Programmes* (OPs) under IPA for each of the six designated sectors involved: Transport, Environment and Energy, Competitiveness and Innovation, Human Resource Development, Integrated Regional Development, Public Administration, and Technical Assistance (Trnski, 2009: 195). Total value of IPA assistance until 2011 amounted to €749.83 million, the largest amount being of €257.35 million being earmarked for the regional development component (Bache et al. 2009: 14).

While progress in the area of programming was good, the analogous progress in the field of administrative and staffing capacity was (and still remains) far from satisfactory for the European Commission (European Commission, 2007, 2009b). Trnski (2009: 196) summarises the point well:

'The availability of human resources at all organizations responsible for EU Funds programming is extremely limited; not all the staff is specialized, and in several cases it has been only recently appointed [...] The capacity shortages at the CODEF are not very likely to improve in the short run. The otherwise very capable staff supervising EU projects are charged with tasks for CARDS, PHARE, ISPA and IPA, as well as for the Structural Instruments. This is physically impossible with the present number of staff. The fact that administrative procedures show a tendency to become more complicated, demanding and time consuming is even more worrying. This is of course the prerogative of Croatian institutions'.

On the legislative side, the Sanader government pledged loyalty to its predecessor's objective for a unified nationwide legal and strategic RDP framework. In this respect, the ongoing CARDS 2002 Project 'Strategy and Capacity Building for Regional Development' was run by the MSTTD, which also began to articulate a national strategy (NSRD) and a Regional Development Act (RDA) in this context. Responding to the European Commission's pressures for partnership-building across all levels the government set up the *National Partnership Council for Regional Development*. Interviews and documents revealed fairly widespread participation in the development of the NSRD/RDA and planning documents for EU aid, as well as extensive engagement through conferences and seminars. While non-state actors often felt their input was ignored, there was also acknowledgement that central ministries had 'opened up' a little to sub-national actors because of EU pressures (interview, Istrian Development Agency official, 2008; quoted in Bache et al. 2009: 14-15). Both the NSRD and RDA were ready by 2005 (Hajdukovic, 2006); yet, their adoption was postponed by the government on the grounds that they had to be aligned with the EU cohesion, state aid, and competition policy requirements (European Commission, 2006). Interviews reveal, however, that this delay was to a certain extent also a result of domestic political considerations. In particular, the RDA foresees a new classification system for the country's 'disadvantaged' and 'assisted areas' based for the first time on a unified national Economic Development Index and demographic index (Koprić, 2007: 101). Through it, many existing supported localities (especially those located in Istria and Primorje-Gorski Kotar Counties) risked losing their status and state aid (interview with Puljiz Jaksa). Since at that time the RDA/NSRD was not in line with cohesion policy thresholds, the first Sanader government had enough time to escape unnecessary controversies with some localities during the electoral year 2007 (interview with Puljiz Jaksa). Thus, despite some very strong pressures by most of the country's stakeholders (i.e., AoTM, AoC, NCC, as well as the majority of sub-national units), the adoption of NSRD/RDA was placed on hold by the first Sanader government which utilised the EU constraint (non-harmonisation with Community legislation) in order not to adopt them.

At the regional level, the European Commission's assistance in building RDP capacity continued throughout the accession phase through a number of CARDS projects (2002, 2003, and 2004). As a result, a great number of so-called *County Development Strategies* (CDSs) were prepared and implemented. It should also be mentioned that 'county partnerships', designed for the purpose of preparing and implementing CDSs, were also organised. By 2007, twenty out of twenty-one counties had CDSs and seventeen counties had established CDAs (Puljiz and Maleković, 2007: 15). Note, however, that, given that most of the CDAs have only recently been established and that not all are yet operational, sub-national authorities, much like their central counterparts, are not yet ready to receive structural funds (European Commission, 2009b).

Notwithstanding current deficiencies, regional and local administrations are displaying a lot of enthusiasm and pro-active engagement. In terms of individual action, some sub-national authorities have a direct presence in Brussels. In particular, in 2007 the Varaždin CDA (AZRA) (founded in 2005) created the Croatian Regions Office (CRO) which now has sixteen partners. The CRO employs two persons (with extensive experience of EU issues) and represents eight counties and six cities and the AZRA and VIRA (Višnja) development agencies (interview with Galeski Patrick; AZRA). In many respects, the strong entrepreneurial character of the Varaždin County has pushed regional and local authorities to move into the orbit of the EU with a view to gaining access to opportunities that are unavailable to them in the domestic arena (cf. Balme and Le Gales, 1997). The same voluntary 'Europeanisation' trends can be observed in the case of the County of Istria. It seems therefore that, much like in other European countries, Croatia's well-off counties and counties bordering on EU member states are better represented in Brussels than poorer regions (cf. Hooghe, 1996).

7.6.3. The EU grows assertive: Last minute compliance and a new regional policy layer

Regional politics reached their apogee during the 2007 elections, rising from a low salience issue to a high one (cf. Grabbe, 2006). Considering that substantial loss or gain of structural monies was at stake, initially indifferent political elites were finally alarmed. This national mobilisation coincided with the European Commission's increasing interest in the country's RDP domain. Accession negotiations had already begun with Chapter 22

still pending opening. In this context, the European Commission's 2007 progress report (2007: 47) was catalytic in pushing Croatian policy-makers to make some important steps towards complying with cohesion policy thresholds, warning that 'the current lack of institutional capacity has directly influenced absorption capacity with respect to ISPA' and other related pre-accession instruments, particularly PHARE. Meanwhile, the European Commission had set out an opening benchmark, thus clarifying what would be needed for opening the negotiations: the adoption of an Action Plan for meeting EU cohesion policy requirements.

In fact, 'Europeanisation' enabled Sanader's would-be coalition partners (HSLs, HSS, and SDDSS) to demand and achieve the establishment of an organisationally distinct Ministry of Regional Development, Forestry and Water Management (MRDFWM), as well as a special Deputy Prime Ministerial Office for Regional Development, Reconstruction and Return headed by a SDSS parliamentarian. The new giant MRDFWM was headed by a HDZ parliamentarian (despite strong pressures by the HSS to gain this ministerial seat), indicating the HDZ's desire to maintain control over this highly delicate policy area. In meeting the inter-ministerial coordination threshold, a new standing sub-cabinet committee was founded in the RDP field. The existing National Partnership Council for Regional Development was revived by MRDFWM, asking relevant institutions from all major stakeholders (county and local self-government, social and economic partners, civil society, central government) to (re-)nominate their representatives for discussing and agreeing on the final regional policy direction. At the same time, the Croatian government kept assuring DG Regio officials that both the RDA and NSRD would be adopted in 2008 (Croatian Government, 2007).

While Croatia met the opening benchmark in March 2008 through the adoption of the requested Action Plan and Decision for the utilisation of Structural Instruments, the NSRD and RDA were still pending adoption. Significantly, both documents had already been set as an Accession Partnership priority in early 2008 and their chronic delay affected negatively the domestic RDP domain as central, local and regional stakeholders still had no clear conceptual foundation upon which they could build their development initiatives (interview with Maleković Sanja; IMO). At the same time, it frustrated the implementation

of various EU PHARE and IPA projects related to institution building in the field of structural funds (European Commission, 2009b: 5, 13).

In response, the European Commission explicitly called for the adoption of the RDA/NSRD in its October 2008 progress report (European Commission, 2008a: 50). As noted in Chapter 4, the European Commission in its October 2008 Communication to the Council suggested a roadmap for the conclusion of accession negotiations, signalling Croatia's credible prospects for membership. Accordingly, a clear message was sent to Croatian authorities: adopt the NSRD/RDA as soon as possible, i.e., before the opening of negotiating Chapter 22. As the government remained committed to its primary strategic goal of EU accession, the competent Minister chose to send a letter to DG Regio (via the EU Delegation) assuring them this time that the RDA/NSRD would be adopted in early 2009 (interview with K-F. M.; EU Delegation in Zagreb).

However, the Minister's eager assurance to DG Regio officials hardly matched PM Sanader's intentions. In a clear attempt not to upset local clients, especially in areas where the new development index foresaw a new playing field with respect to state aid, Sanader chose to transfer the date of adoption of these documents to the second half of 2009. It is worth noting in this context that local and regional elections were scheduled for May 2009. Apart from the above documented administrative shortcomings of the DIRD, the official explanation for this second delay was that the MRDFWM had to strengthen the analytical base of the NSRD, detail the development priorities for each NUTS 2 region and evaluate the regional development measures currently in use. For that purpose, the Ministry initiated two strategic studies in July 2008. One was a study on the development priorities in the wider region (NUTS 2). The other was an assessment of the measures used to foster the development in lagging areas in Croatia. The studies were undertaken by a consortium of the Economics Faculties of Zagreb and Split. Nonetheless, the fact that the RDA puts in place a new playing field for RDP which can be seen as threatening established non-transparent practices and networks provides a far more persuasive hypothesis in explaining ruling elites' reluctant and slow progress in adopting the said documents.

As noted in Chapter 4, after PM Kosor (HDZ) entered office in July 2009, a radical shift in the country's slow progress in meeting various EU conditions took place. Apart from unblocking accession negotiations, Kosor's cabinet also intensified efforts in the field of RDP. With Croatia about to open negotiations in Chapter 22 within the first quarter of 2010, the Minister of RDFWM was upgraded to a Deputy Prime Minister, and the government adopted a new Budget Law introducing multi-annual (three-year) budgetary planning and budget flexibility, established the CFCA as an independent body from the MoF in order to separate managing and monitoring of RDP, prepared the country's *National Strategic Reference Framework* under CODEF, and designed an overall *Institution Development and Capacity Building Strategy* aimed at strengthening administrative capacity. Finally, the parliament adopted the RDA on 11 December 2009 (*Official Gazette*, No. 153/2009).

Broadly, the RDA is attuned to cohesion policy principles (partnership, multi-annual programming, monitoring and evaluation, etc.), though it was also recognisably a product of Croatian politics with a number of political compromises. Put simply, while the RDA is built around the main principles associated with EU structural funds, it also introduces several additional principles which reflect the specific Croatian approach to management of regional development (e.g. local autonomy, sustainability, etc.). The RDA classifies 'regions' precisely as mandated by the EU NUTS 2 standardisation guidelines, and sets up a number of new RDP institutions and programming/strategic documents or provides a statutory base to existing ones. In particular, the RDA/NSRD establish the following structures:

- The *National Partnership Council for Regional Development* as the national-level advisory body composed of the representatives of the public (central state administration, regional self-administration units, cities and local self-administration units), private and civil sectors. It is established for the purpose of providing advice related to the preparation, implementation and monitoring of the NSRD, coordinating various subjects and participating in regional development planning;
- The *National Agency for Regional Development (NARD)* as the implementation body of MRDFWM for all national and EU regional development programmes. NARD will incorporate several (parts of) directorates of MRDFWM and eventually also other ministries that implement programmes and measures in the field of regional development. NARD will consist of a central office and three regional offices, one in each NUTS 2 region. NARD will

closely cooperate with the line ministries that undertake investments that strengthen the economic and/or social structure in the regions of Croatia, and with regional and local project initiators and developers. NARD will also act as the intermediate body for all EU-funded programmes in the field of regional development.

- The *NUTS 2 Region Partnership Councils* will be established in each of the three NUTS 2 regions. They will comprise national government representatives and three county representatives (public, social partner, civil society) from each *County Partnership Council* in each NUTS 2 region. They will be selected by their own County Partnership Council to represent the views of the county at the NUTS 2 region level under the chairmanship of the MRDFWM. The NUTS 2 Region Partnership Council will facilitate Joint Development Projects, advise the MRDFWM on the formulation of the NUTS 2 region development priorities, as well as cooperate and consult with the NARD and relevant line ministries on the design and implementation of NUTS 2 region projects.
- *County Partnership Councils* as county level advisory and monitoring bodies aimed at providing advice and guidance to the County Development Agency during the course of elaboration of the *County Development Strategy* (CDS). They will also provide advice to the county prefect on the effectiveness and quality of the CDS, its Action Plan and other county development planning and policy documents and monitor the effectiveness and quality of the implementation of these development strategies, plans and policies.
- The *County Development Agency* (CDA) as a multidisciplinary institution that promotes and supports the development efforts across the county.

Notwithstanding its novelties (primarily its intention to provide a balanced and nationwide regional development perspective), the RDA does not replace the existing fragmentary legal and institutional RDP apparatus as all ‘regional acts’ with their predominant ‘particularist approach’ remain in force. In this respect, European integration has not had a ‘transformative’ effect. Instead, the RDA and the corresponding NSRD constitute an additional ‘layer’ (cf. Thelen, 2003) in the already crowded institutional web of RDP in Croatia. Thus, at the moment of writing, ‘accommodation’, i.e., change in the periphery of national policies, seems to be the actual Europeanisation effect.

7.7. Conclusion

Historically, there has been no coherent nationwide regional policy in Croatia despite the country’s pronounced regional differences. Within Yugoslavia, RDP (if any) was centralised and executed in a non-transparent way, lacking an overall legal instrument and conceptual framework. This socialist institutional pattern continued and, according to many experts, it was further reinforced in the post-communist period under the

authoritarian regime of the HDZ. This is not to say that there were not some developments in this area. But, to the extent that progress was made in the area of RDP, it was part of a broader, non-coordinated, non-transparent and largely ineffective ‘reconstruction’ process, as opposed to having a ‘dynamic’ of its own. Due to inherited unfavourable legacies, the ‘state of emergency’, the ensuing reconstruction necessities, and the traditionally predominant sectoralist approach to development issues, the outgoing HDZ-led government laid the foundations of a legally and institutionally fragmented regional policy management structure which, significantly, lacked a nationwide and integrated regional policy concept, let alone a single RDA. Significantly, throughout the 1990s Croatia had no contractual relations with the EU, meaning that it could not benefit from PHARE projects and therefore build a coherent RDP like other CEECs. But, following the demise of nationalist rule in 2000 and the subsequent re-launch of the European integration process, a number of EU CARDS projects were to prove instrumental in ‘raising awareness’ of the necessity for a nationwide RDP framework as well as for building capacity and ‘actors’ at the country’s local and regional levels. CARDS projects and EU money were also instrumental in fostering a partnership among a multitude of RDP stakeholders, thus ‘opening up a bit’ the country’s still strongly centralised and exclusivist decision-making pattern. As expected, conditionality-led ‘Europeanisation’ did result ultimately in ‘institution-building’ or ‘layering’ of new RDP instruments, not least because of the stakeholders’ instrumental use of the EU cohesion policy to convince policy makers of the necessity for a national RDP in line with EU thresholds. Despite a series of delays which allegedly had something to do with the country’s sub-national vested interests, lack of political will on the part of successive governments, organisational instability and generalised resource shortages (human, financial, administrative) as well as the country’s electoral calendars, adaptation did occur, but only at the end of 2009 and only when accession negotiations were nearing conclusion, as theory predicts. Overall, EU requirements have been strongly contested and ‘accommodation’ seems to define the results of Europeanisation in this policy sector.

With respect to territorial organisation, the country’s post-communist territorial and (sub-national) administrative architecture was the result of the interaction of the domestic politics of transition (including historical legacies shaping the debates) and the particular actor constellation (conservative/nationalist) at the moment of transformation. No direct

EU effects can be reported in this period. Thus, the post-communist imposition of strong central government and the concentration of power in the centre were driven both by the central elites' authoritarian reactions to democratic transition and by fear of territorialised internal minorities (Serbian and Istrian) and/or an external power (Serbian and Montenegrin). Significantly, this centralised pattern of government carried over into the post-nationalist period, though some revisions were brought about, devolving some decision-making to the sub-national level and recognising counties as regional entities. Indeed, the institutional architecture of two elected tiers at the sub-national level (county and local government), and a system of prefects, would change little, notwithstanding further legislative amendments in 2001, 2005 and 2007. As expected, the EU's influence on the territorial division of the country was limited to the NUTS 2 statistical-administrative division of the country. As in the case of regional policy, 'accommodation' seems to be the actual consequence of the EU NUTS conditionality as, though change did occur, this did not alter core patterns of territorial configuration and/or the division of responsibilities between the central and the sub-central levels. Instead, considering most political elites' disinclination to regionalisation and decentralisation, continuity and path-dependence were proven powerful change-resilient factors (cf. Pierson, 2004). This, in turn, is largely understandable as the EU has weak, if not no leverage at all in this field. Another factor indirectly privileging centralisation was the European Commission's open preference for a centralised management of structural funds. At the same time, and in contrary to the RDP case, Croatian elites 'felt' no EU pressure in adopting the EU-sponsored decentralisation strategy as this had not been set as an accession condition. In fact, the European Commission was inconsistent with respect to decentralisation policy, thus allowing domestic politics to prevail, as predicted by theory. Croatia's territorial apparatus remains thus strongly centralised, albeit with increasing tendencies towards devolution and rationalisation as the direct election of county prefects and mayors as well as the contemporary debates over 'regionalisation' best illustrate. It seems that it is not just 'Europeanisation' alone, the 2008/9 global financial crisis seems to also frame contemporary debates over 'regionalisation' in the country.

8

Conclusions: Sluggish Institutional Evolution, Resilience, and Shallow Europeanisation

8.1. Introduction

The overarching focus of this study was the institutional (and policy) consequences of European integration for the Republic of Croatia. As noted in Chapters 2 and 3, the two most commonly used concepts in framing the research on European integration and EU enlargement are ‘Europeanisation’ and ‘conditionality’. In terms of Europeanisation, having surveyed a great number of different understandings and/or definitions of the term, this study resorted to Dyson and Goetz’s (2003a) conceptualisation which, focusing on patterns of ‘downloading’, has offered an interactive way of understanding the impact of the EU on the national settings of both incumbent and candidate states. According to Dyson and Goetz (2003a: 20) ‘Europeanization denotes a complex interactive ‘top-down’ and ‘bottom-up’ process in which domestic polities, politics, and public policies are shaped by European integration and in which domestic actors use European integration to shape the domestic arena. It may produce either continuity or change and potentially variable and contingent outcomes’. It has been argued here that such a conceptualisation eschews sufficiently the sin of ‘conceptual stretching’ (cf. Sartori, 1970) by rendering the ‘uploading’ dimension ‘accompanying’ property of European integration, while at the same time providing a more nuanced explanation of the multiple methods of EU intrusion

without overloading the definition with ‘accompanying baggage’ (Gerring, 1999). Put simply, EU effects may be generated by EU actors and institutions in a classical ‘top-down’ fashion and/or in a more intriguing ‘bottom-up’ manner by domestic actors who ‘use’ European integration as an opportunity to induce reform (cf. Jacquot and Woll, 2003). Therefore, this definition is framed in a way that ‘encourages careful work on tracing the effects of European integration’ (Dyson and Goetz, 2003a: 20) on a target state’s polity, politics and policies and thus (also) resonates well with this study’s effort to avoid overstating the EU’s influence. Finally, this definition delves deeper into the domestic setting, acknowledging the ‘indeterminate’ nature of the effects of Europeanisation.

Turning from conceptual to theoretical questions, in the context of EU enlargement, most scholars and policy-makers generally view conditionality as the core of the EU’s foreign policy or ‘external governance’ towards non-member states in its ‘neighbourhood’. In fact, there is broad academic consensus on the ‘paramount causal relevance of asymmetrical interdependence and credible accession conditionality for the quick and pervasive adoption of EU rules in the accession countries’ (Schimmelfennig and Sedelmeier, 2007: 94). There is a solid agreement in the literature that the ‘asymmetrical interdependence’ (Vachudová, 2005) between the candidate-states and the EU renders the Union’s disciplinary power potentially ‘colossal’ and ‘transformative’ (Grabbe, 2006; Schimmelfennig and Sedelmeier, 2005c, 2007), provided that the Union consistently speaks clearly, with one voice, and that its conditionality is credible both in terms of delivering the rewards in the case of rule adoption and/or withholding the rewards in the case of non-compliance. Inherent in this assumption is also the fact that EU institutions fail to make much of a difference in domestic settings when they lack treaty-based leverage and speak ‘vaguely’. Above all, what matters is the salience the EU ascribes to a particular policy (Grabbe, 2006). When EU rules have been set as clear conditions or benchmarks, compliance is monitored consistently by EU institutions. The EU connects rule adoption with further advancement towards the ultimate reward, i.e., membership. Domestic inhibiting factors (adoption costs, veto-players, historical legacies, weak administrative capacity etc.) do not affect the likelihood of adoption *per se*, but *only* the timing and nature of rule adoption (Schimmelfennig and Sedelmeier, 2005c). Further, studies of candidate Europeanisation reveal that the only case where domestic factors supersede the deployment of credible EU

membership conditionality is when Europeanisation confronts authoritarian national settings and illiberal political parties. This is because the democracy-centred normative framework of this literature implies prohibitive adaptation costs and tremendous changes in the political bases upon which the power of these parties rests (Schimmelfennig, 2005). In effect, Europeanisation requires prior political change bringing democratic, pro-reform and EU-oriented political forces into power (Vachudová, 2005).

Though acknowledging the possible paramount significance of Europeanisation and conditionality in explaining domestic adaptation under EU guidance in Croatia, this study proposed a third concept, i.e., ‘institutional evolution’, in an effort to compensate for the inherent limitations informing the dominant ‘top-down’ rationalist explanations in the literature. These are: failure to fully account for (i) the ‘politicisation’, ‘resilience’ and ‘institutionalisation’ components of Europeanisation; and (ii) the possible multiple sources and motors of institutional development. In fact, the concept of ‘institutional development’ complements Dyson and Goetz’s definition of Europeanisation in that it encourages us to ‘remain attentive to the ways in which previous institutional outcomes can channel and constrain later efforts at institutional innovation’ (Pierson, 2004: 133). Simply put, this study has been particularly sensitive to the domestic institutional context, its development over time, its idiosyncrasies, as well as actor constellations and interests, thereby subjecting Europeanisation to a more rounded test as a way to gauge both its strengths and, perhaps more crucially, its limitations. In so doing, this study has focused attention on the need to better conceptualise the relationship between domestic politics (transition) and enlargement. In fact, placing Croatia’s politics of institutional development within a time-oriented and history-sensitive narrative and following a process-tracing and case-by-case methodology, this study has understood Europeanisation as a process that develops over time and is enmeshed within Croatia’s domestic timetables and cycles of institutional development.

To guide research in Croatia and facilitate comparisons with other country studies, a common set of questions has been proposed:

- What has been affected by Europeanisation and to what extent?
- Has each part of the Croatian institutional (and policy) context been equally/similarly affected by EU inputs or are some areas more Europeanised than others?

- What factors explain the domestic response to Europeanisation incentives/pressures?
- When has Europeanisation occurred and in what sequence?
- Is Croatia's pattern of compliance with EU institutions and policies similar to or different from that found in the other candidate and 'old' member states?

In their studies in Germany, Dyson and Goetz (2003b: 352-65) used the triad - polity, politics and policy - as their starting point for analysing the empirical findings of their contributors. Rather than allowing the research questions to guide their analysis directly they addressed the questions in a more indirect way (for a different structuring see, however, Bache and Jordan, 2006b: 266-71). This allowed them to go beyond a mere Europeanisation-centred analysis and thus incorporate theoretical arguments of other literature dealing with domestic outcomes of institutional development. This is a useful way to assess the relative degree of Europeanisation across all of the three domains and draw comparisons with established scholarship(s). The same analytical framework is used here as a way to facilitate comparison with other country studies and thus contribute to the accumulation of knowledge in Europeanisation studies.

The structure of the chapter is set out below. Section 2 provides a detailed review/analysis of the Europeanisation effects on Croatia's polity, politics and policy domains. Section 3 argues that the Europeanisation process (as pertaining to Croatia) has had a logic and momentum of its own, which was distinct from other factors, including the accession negotiations. Section 4 provides a brief discussion on the extent and direction of institutional change in Croatia, while Section 5 inquires into the change-resilient factors and corresponding domestic outcomes. Finally, Section 6 offers some tentative arguments on Croatia's post-accession sustainability mode and degree of 'institutionalisation'.

8.2. The Europeanisation of Croatian polity and policy

Broadly, there is a striking harmony between the findings of studies on 'member-state Europeanisation' and most studies on 'candidate-country Europeanisation' with respect to the *extent* of EU-related adaptation across countries and the domains of polity, politics and policy, despite the peculiar (asymmetrical) context of enlargement defining EU-candidate-state relations (cf. Sedelmeier, 2006: 14). More specifically, most studies on Europeanisation in the East confirm the differential impact of Europe and the EU (cf.

Lippert et al. 2001; Grabbe, 2003, 2006; Jacoby, 2004; Dimitrova, 2004a; Brusis, 2005; Schimmelfennig and Sedelmeier, 2005a; Goetz, 2005). This finding might seem somewhat surprising, as there are good reasons to expect that the EU's impact on the CEECs should have been more pervasive and induce greater convergence because of the accession conditionality (Schimmelfennig and Sedelmeier, 2007: 88) and the relatively weak entrenchment, and thus arguably higher malleability of their post-communist institutional arrangements (cf. Goetz and Wollman, 2001; Grabbe, 2003: 306-308; H eritier, 2005). Despite all these, diversity persists (cf. Bauer et. al. 2007). This variation in impact effects is due both to domestic factors and to the limitations informing the EU's disciplinary devices, in particular conditionality. As for the crucial question of institutional durability, Klaus Goetz (2005: 262) has pointed out that, despite the 'immediate and fast' manner of EU rule adoption in the case of eastward enlargement, the long-term outcome might be much more 'shallow and also reversible' in the new entrants (Grabbe, 2006; World Bank, 2006). This is because applicants have no interest in investing in 'deep Europeanization' and 'lock in' specific institutional arrangements given their generally weak state capacity and the enormous uncertainty surrounding enlargement (cf. Grabbe, 2003: 318-23). How do all these compare to the Croatian findings?

8.2.1. Polity impact

The Europeanisation of the *polity* domain was found to be strong, complex and variegated. In brief, state institutions such as the civil service system and administrative procedures and justice systems have undergone profound (formal) changes. Although this study has not investigated in depth the EU's impact on polity institutions such as the Croatian constitution, the government and the parliament, Chapter 4 reveals that these institutions have been to a certain extent re-shaped in view of the country's accession to the EU. Yet there are also cases, such as the country's territorial set-up, where the EU's incentives and institution-building efforts have not had much of an effect. Thus, in broad terms, a strong 'semi-Europeanised' trend of adaptation in the polity domain has been recorded in Croatia. But, when an attempt is made to classify the degree of domestic institutional change following the heuristic typology of Europeanisation impacts set forth in Chapter 2, a more complex and confusing picture is revealed. First, in regard to the Croatian government and parliament, 'accommodation' seems to be the overall consequence as Croatia adjusted pre-

existing structures and procedures to the functional requirements of EU membership while leaving the core features of the target institutions intact. The picture is blurred, however, when it comes to the Union's impact on the administrative procedures and justice and civil service systems. Here, at first glance, 'transformation' through 'replacement' of existing institutional arrangements appears to be the EU-induced consequence. Yet, when it comes to the implementation of EU rules, 'absorption', i.e., incorporation of EU requirements without substantial modification of the logic of political behaviour, and 'inertia', i.e., resistance to further necessary adaptations to meet EU requirements, seems to define Europeanisation effects in these sectors of state administration. Finally, Europeanisation has not had any dramatic effect on the country's territorial set-up, old arrangements persist and EU requirements (NUTS standardisation system) being thus largely 'accommodated'.

Administrative Justice

The EU has had a significant direct impact on the country's administrative justice and the corresponding general administrative procedures and legal frameworks for dispute resolution. In this sector of reform there were significant, one could argue 'path-breaking', institutional changes (despite much resistance and a series of delays) that could be traced back to the 'top-down' shaping power of EU accession conditionality.

Despite the fall of communism and the corresponding demise of the federal state, Croatian state builders chose to retain the country's old administrative jurisprudence system and corresponding normative frameworks (e.g., GAPA and ADA). Thus continuity rather than transformation defined this sector of state administration during the 1990s. This trend of institutional continuity carried over to the immediate post-2000 period as under the Račan cabinets no efforts were made to change the country's inherited dysfunctional system of administrative justice and align it with the corresponding European standards. Indeed, though administrative justice was a discredited institution and thus was perceived as in need of modernisation, the lack of integrated political leadership (internal fissures in the coalition governments), together with the institutional weakness of the responsible ministry (MoJALSG) and the associated high adaptation and coordination costs entailed in the transformation of historically validated and complex structures (cf. North, 1990), thwarted reforms in this sector. Only in 2004/5, i.e., when the country's judicial and administrative capacity became a salient issue for the EU, did the Croatian governing elites begin efforts

to design new legal frameworks pertaining to administrative jurisprudence and general administrative and disputes procedures. Thus, in an effort to comply with the *acquis*, the Sanader and Kosor governments ‘replaced’ (cf. Pierson, 2004) the existing obsolete legal frameworks with the newly-fledged GAPA (2009) and ADA (2010) largely in accordance with the EU rules and mandates. Under EU conditional incentives, the Croatian Administrative Court will also undergo (as of January 2013) internal restructuring (four regional courts will be established), alignment with European standards (it will be transformed into a two-instance court) and consolidation as a full-jurisdictional court in the Croatian judiciary system following the enactment of the ADA in January 2012.

Although profound, much of the institutional change here relates to ‘formal rule adoption’ and institution-building rather than ‘behavioural change’ (cf. Schimmelfennig and Sedelmeier, 2005b) as both the new GAPA and ADA still remain largely non-implemented. The implementation of the GAPA in particular seems to corroborate Goetz’s (2005) argument of ‘shallow Europeanisation’ as the existing special procedures acts, instead of being reduced, have actually mushroomed, thereby obstructing the ‘institutionalisation’ (cf. Olsen, 2000) of Croatia’s new administrative procedures apparatus. Much of the reluctance to ‘clean up’ the messy administrative procedures realm originates from the lack of political will, endemic bureaucratic conservatism and inertia, as well as lack of institutional capacity at the ‘centre of government’ to co-ordinate and oversee the abolition of the existing special acts and implementation of the new arrangements. Extra-domestic and non-EU factors such as the global financial crisis that hit Croatia in 2008/9 and corresponding fiscal tightening in government expenditure also appear to play a decisive constraining role in terms of thwarting the implementation of the adopted legal innovations, as the two-year delay in the organisational restructuring of the administrative justice sector reveals.

Finally, in terms of timing and sequencing of Europeanisation in this sector of reform, a clear temporal pattern is revealed: adaptation began under EU pressures and occurred only when accession negotiations drew closer to completion (i.e., in 2009 and 2010). Had it not been for the EU accession process, the administrative procedures and justice domains would have experienced a far more incremental path of rule innovation, as is manifested by the existence of high levels of domestic resistance, weak institutional capacity and weak

political will to reform. Furthermore, no reform attempts pre-dated the deployment of accession conditionality in these realms. Thus it seems that no long-term processes of institutional change (cf. Pierson, 2004; Thelen, 2004) were in operation when the EU stepped in, despite the fact that Croatia's administrative justice realm was characterised by 'dysfunctional institutions'. It seems, therefore, that EU conditions within a broad democratisation and modernisation context (at the time other significant, GAPA-related reforms in the Croatian state administration were in operation, prompting in part the GAPA's reform) represented the only real pressure for reform that 'erode[d] or swamp[ed] the mechanisms of reproduction that generate[ed] continuity' (Pierson, 2004: 52). In short, Europeanisation shortened the time horizon of institutional innovation by radicalising and shaping reform in this sector. But domestic resilience, though it did not succeed in preventing institutional reform, given the EU's pervasive leverage and monitoring, has managed until now to channel institutional outcomes by delaying further institutional adjustments and implementation. In this respect 'inertia' defines this sector of reform.

The Civil Service

Another polity-related sector of reform that has experienced a significant formal revision, though equally hesitant and politicised, is Croatia's civil service system. Here too, a new CSA adopted in 2005 has 'replaced' (cf. Pierson, 2004) the existing CSEA of 2001 with the aim of unifying and harmonising the Croatian civil service apparatus and its internal working procedures with the OECD/SIGMA devised and EU-backed civil service thresholds. In this sector of reform there is more of a story to tell about institutional and organisational changes or even outright institution-building than is the case with administrative justice.

Croatia's new civil service regime has codified and extended the norms of politicisation and professionalisation across most levels of civil service. While largely retaining the country's historically entrenched 'career-track' employment blueprint, the first Sanader government (2003-2007), under heavy foreign pressures, formally opted for a widely depoliticised notion of civil service with only a small circle of senior personnel being subject to political appointments. As regards professionalisation, under the EU/OECD guidance Croatia acquired for the first time in its history as an independent state a special Civil Service Training Centre. Following the institution-building pattern of the task-

specific CSOA, the Ministry of Administration (MoA) was created in mid-2009. Finally, after a series of delays, unsuccessful attempts and much resilience the country acquired, largely under EU pressures, its first strategic document pertaining to state administration reform, the *SARS 2008-2011*.

In terms of the preconditions for change and the causal triggers, the civil service reform of 2005 appears quite problematic as it owes more to a ‘conjuncture’ of multiple motors of change rather than being a pure EU-induced consequence. In fact, the 2005 civil service restructuring was one with clear ‘extra-EU’ influence – particularly from the World Bank. Here, the role of the EU alone seems to have been very limited (only provision of financial and technical advice and lack of conditionality) with regard to the ultimate outcome: adoption of the new CSA. Chapter 5 revealed that there was little active engagement on the part of EU institutions (e.g., a joint letter with the World Bank) in terms of prompting the government to adopt the new CSA. In contrast, the World Bank’s PAL I-related conditionality seems paramount in explaining domestic compliance despite high resistance. Put simply, the first Sanader government had to comply with the World Bank’s ‘maximalist’ demands (depoliticisation component) if it wanted to gain access to the latter’s PAL-related monies. Again, the PAL series was designed by the World Bank with the aim of assisting Croatia’s modernisation efforts in view of its forthcoming EU membership. In this respect, the World Bank worked closely (i.e., co-ordinated its action and strategy) with the European Commission (as well as other IOs). It seems therefore that, in the case of Croatia’s civil service reform, ‘Europeanisation’ and ‘globalisation’ interacted and were ‘co-ordinated’ leading thus to a ‘reinforcing’ trend of international conditionality (cf. Anderson, 2003: 49) which in turn led to ‘formal rule change’.

Yet, the devil lies in the detail. The history-oriented and time-sensitive methodology used in this study has demonstrated that the ‘co-ordinated’ foreign conditionality in the civil service sector has only *catalysed* the course of reform. In other words, it did *not* trigger it. Croatia had already experienced two failed rounds of reform in this sector in 1994 and in 2001 respectively, meaning that the need to replace a dysfunctional institution, i.e., the civil service legal regime, was part of its post-communist transformation process and thus, as with the 2001 reform round, pre-dated or ran parallel with the deployment of any kind of international conditionality. It seems therefore that, in the case of civil service reform,

‘the moment of institutional innovation’ followed ‘a long build-up of pressure’ (Pierson, 2004: 164) which itself had started immediately after the collapse of communism. In this respect, the ‘agents of change’ (the World Bank and the EU) played only ‘the starring role in the dramatic conclusion’ (ibid) by catalysing innovation. Thus the development of Croatia’s civil service system has been driven by complementary transformation and European integration objectives.

The civil service reform case also shows an *interactive* sense of Europeanisation as, in view of anticipated parliamentary resistance, the main ruling party (HDZ) used the EU membership constraint from the ‘bottom-up’ in order to persuade its coalition partners to endorse the highly controversial CSA. Perhaps most significantly, much as in the GAPA case, the civil service case illustrates the limitations of the transformative power of the EU, as implementation (particularly with respect to the depoliticisation and professionalisation components) has suffered on the ground for reasons to do with the adoption costs incurred by the ‘losers’ of adaptation (political parties), the lack of sufficient institutional capacity and the absence of ‘administrative *acquis*’ and the corresponding inconsistent application of EU administrative conditionality. Chapter 5 showed that despite the strong and broad depoliticisation imperatives of the new CSA, recruitments remain politically driven and subject to the country’s coalition government dynamics. At the same time, the government organisation charged with the responsibility to carry out the civil service reform and align existing complementary legislation with the provisions of the new CSA, i.e., the MoA, lacked the institutional capacity to do so. Finally, the Commission’s material leverage in prompting governing elites to effectuate the CSA depoliticisation and professionalisation provisions appeared to be relatively weak and in sharp contrast to its gradually stronger rhetoric on the PAR issue. Indeed, although the Commission kept monitoring Croatia’s record of compliance through its progress reports, insisting on rapid changes in the country’s public administration and the implementation of the SARS, Croatian ruling elites responded with reluctant and slow steps in carrying out the state administration reform and effectuating the CSA provisions. Without a doubt, the inconsistent association between assessments of reform and the conferral of rewards (further steps towards accession) from the EU side has largely weakened the Union’s disciplinary leverage in this sector of reform. Both domestic- and EU-related unfavourable factors seem to obstruct, therefore,

the ‘transformation’ of Croatia’s civil service system, in the sense of change in the logic of behaviour, resulting instead in the ‘absorption’ of EU rules.

Territorial set-up

The EU’s effect has been less apparent on the country’s territorial organisation. In fact, European integration has ‘failed’ to trigger any meaningful changes in the country’s territorial set-up as successive Croatian governments have sought to ‘acquiesce to the institutional status quo’ (cf. Pierson, 2004:156) despite numerous revisions to legal frameworks pertaining to local and regional self-government. Without a doubt, sub-national actors such as mayors and county prefects have gradually seen their powers augmented for reasons to do both with the democratisation dynamics defining Croatia’s post-2000 political system and the European principle of ‘subsidiarity’ and its instrumental utilisation by domestic stakeholders such as the Association of Towns and Municipalities. But despite their recent empowerment, Croatia’s sub-national executive functionaries and their collective bodies still remain highly dependent on the ‘centre’. With regard to the country’s territorial configuration, Croatia is still lacking a genuine *meso* tier in European terms, despite the presence of the 21 counties. When faced with the option of replacing the historically validated system of counties with EU style regions, successive Croatian governments have hesitated. This trend of ‘continuity’ raises in turn important questions regarding the limits of EU enlargement governance and the strong path-constraining power of domestic legacies and politics.

In particular, as there was no direct (formal) EU conditionality in this sector of reform beyond the requirement for NUTS standardisation, the country’s territorial set-up and ‘shallow’ decentralisation dynamics (see section ‘policy impact’) are due almost exclusively to indigenous factors, i.e., transition politics and corresponding path dependence. In fact, the political costs of genuine regionalisation still seem highly prohibitive for most parliamentary and sub-national actors (exceptions are the regionally-based IDS and the HDSS) and collide with the still strong centralising and homogenous dynamics that define Croatian politics because of the country’s historically conditioned and contested ethnic identities and boundaries. In this respect, the EU’s NUTS division has been successfully ‘accommodated’ within the country’s post-communist state norms of centralisation and etatisation. In fact, the government complied by simply ‘layering’

(Thelen, 2003) an administrative-statistical variant of NUTS 2 onto the country's existing territorial organisation. Accordingly, 'regions' exist only on paper and regionally-based RDP institutions (e.g., NUTS 2 Partnership Councils, NARD) are centrally appointed, with most powers over regional development and funding being retained in central ministries and agencies (as also privileged by the Commission).

8.2.2. *Policy impact*

Both strands in Europeanisation scholarship find the greatest impact of the EU in the *policy* dimension. This study finds a mixed trend of adaptation across two related policy areas: regional policy ('accommodation') and decentralisation ('absorption'). Such a variegated policy impact pattern hinges in turn on the limitations of the EU's coercive leverage on each of these policy areas and on the degree of salience ascribed to each policy area by the EU.

Europeanisation has had a moderate institutional effect on Croatia's regional policy domain despite the 'thinness' of the *acquis* in this sector. Put differently, despite the fact that the EU lacked a 'thick' regional *acquis*, EU 'soft' incentives (money and technical advice) did succeed in raising awareness among Croatian policy-makers over the necessity for an regional policy reform. The 'bottom-up' utilisation of the 'European' factor (cohesion policy) by domestic institutional entrepreneurs (academics, the Association of Towns and Municipalities, etc.) may have also contributed to the raising of awareness among policy makers who were cautioned that the creation of cohesion policy-related RDP would have run the risk of operating in parallel and with no synergies whatsoever with the existing fragmentary style of doing regional policy development in the country. Unlike those of the CEECs (cf. Hughes et al. 2004), however, Croatian policy-makers enjoyed a much more transparent and clear framework of conditionality in this sector of reform: clear benchmarks were set and the annual Progress Reports and corresponding Accession Partnerships clearly defined what would signify compliance with the negotiating Chapter 22: *inter alia*, adoption of a unified RDA and NSRD. Then, EU conditionality trumped adoption costs and intensified the speed of rule adoption and influenced, to some extent, the content of the new rules. Here, Europeanisation has taken the form of 'innovation' rather than 'replacement'.

In terms of structural adaptation, new structures have been created at both the national and sub-national levels with the aim of effectuating the EU's cohesion policy-related thresholds (primarily the partnership and programming ones). Thus, at the central level an inter-ministerial committee has been created following the establishment of a fully-fledged ministry on regional development (MRDFWM) and the task-specific departments CODEF and NARD. At the sub-national level, several county development agencies (CDAs) were created throughout the 2000s and well before the actual enactment of the RDA in December 2009. Europeanisation in this sector of reform has also taken the form of 'bottom-up' adaptation or institution-building as mostly well-off counties (e.g., Istria, Varaždin) and localities have created special structures in Brussels (e.g., AZRA) with the aim of effectively projecting their interests at the EU level, thus by-passing central government institutions (ministries and agencies).

As regards regional policy itself, under EU incentives and pressures Croatia designed and endorsed a nation-wide regional policy, thus filling a relative 'institutional void' (cf. Goetz, 2005). The new RDA and corresponding regional development concept (NSRD) were 'layered', (cf. Thelen, 2004) in parallel to the existing 'regional acts'. Thus, the institutional status quo in the development sector ('regional acts') has not been 'replaced', but augmented (introduction of the RDA) and revised (meaning 'harmonised') with the aim of adapting it to EU cohesion thresholds. This adaptation trend notwithstanding, compliance here, much as in the GAPA and CSA cases, was not smooth. Rather, it was reluctant and incremental, and heavily influenced by domestic mediating factors (e.g., adoption costs, institutional legacies, institutional capacity and veto players). Thus domestic politics did play an important role, in particular by (i) shaping which rules were adopted in the RDP domain (cf. Pierson, 2004) where concrete EU demands are more limited in accordance with the lack of *acquis* and (ii) obstructing the abolition of the other 'regional acts' and their special care and attention to the least developed regions in the country. Yet EU RDP principles have been incorporated within the new RDA and new organisations have been created in response to EU incentives/pressures despite the country's weak staffing, institutional and administrative capacity in this domain. In this respect, institution-building has occurred but is hardly equivalent to 'transformation'. Rather, much as in the related system of territorial organisation, 'accommodation' seems to be the EU-induced outcome in this sector of reform, with the level of change in political

and administrative institutions being modest in character. The consequence of this approach is a moderate effect, yet with inbuilt potential for fundamental changes, over time and within the EU context, to the regional/local economic and social structure.

Finally, in terms of decentralisation policy, the EU has had a little effect on the country's administrative and fiscal decentralisation policies despite attempts to help the government design and endorse a decentralisation strategy. As in the other areas of PAR, the EU provided Croatian policy-makers with technical and financial support (CARDS projects) in the policy area of decentralisation but, due to the Union's lack of administrative leverage and the Commission's inconsistent linkage of administrative conditionality with accession advancement and corresponding inconsistent monitoring, the adoption of the decentralisation strategy has not yet materialised. In short, unlike in the case of regional policy-making, the EU did not ascribe much salience to the decentralisation issue. As theory predicts, without the threat of coercion 'soft' EU incentives fail to make much of a difference if there is no corresponding 'local ownership' and there is a wide scope of discretion on the part of member or candidate states. It became evident from the analysis in Chapter 7 that successive Croatian governments lacked the political will and institutional and financial capacity to devolve further powers to the sub-national units apart from allowing for the direct election of mayors and county prefects in accordance with the European principle of subsidiarity. In this respect, the EU's 'seeds' (technical advice and money) fell on infertile ground (cf. Schimmelfennig, 2008). Thus, at the time of writing (September 2010), 'absorption' of EU requirements seems the outcome of EU-induced institutional development in this domain of reform.

8.3. Europeanisation: Momentum, logic(s), and temporality

One thing that emerges very strongly from both the historical and empirical chapters is that Europeanisation processes had a logic and momentum of their own, which to some extent were distinct from indigenous and other foreign processes of institutional development and from the logic of accession negotiations themselves. This finding chimes well with the established wisdom in the case of CEECs (cf. Grabbe, 2006; Lippert et al. 2001; Ágh, 2003).

8.3.1. Momentum and multiple logics of Europeanisation

Students of EU enlargement have suggested that pre-accession Europeanisation processes can be broken down into several stages, each one having a particular momentum and logic. Ágh (2003) has classified Europeanisation as having an ‘anticipatory’ and ‘adaptive’ mode. ‘Anticipatory Europeanisation’ refers largely to voluntary adjustments on the part of aspirant EU members. This stage of Europeanisation usually precedes the establishment of institutional relations between the aspirant member and the EU. In contrast, ‘adaptive Europeanisation’ refers to EU-induced processes of domestic alignment. Often this mode of adaptation begins when an aspirant state has become an EU associate. Lippert et al. (2001) have identified five stages of ‘candidate-state Europeanisation’: (i) the *pre-stage* first contacts, (ii) the *first-stage* Europe Agreements/SAA, (iii) the *second-stage* pre-accession, (iv) the *third-stage* accession negotiations; and (v) the *fourth-stage* post-accession. Grabbe (2006) has offered yet another more nuanced classification of the multiple facets/routes of candidate-state Europeanisation. According to Grabbe, Europeanisation processes are partly distinct from accession negotiations (‘gate-keeping’ stage) as they precede them, taking the form of models, money, technical advice, monitoring and benchmarking (see Chapter 3).

Regarding Croatia, the analysis has shown that Europeanisation processes began as early as the 1970s and proceeded with varying degrees of intensity (see below). For instance, ‘anticipatory Europeanisation’ in Croatia took the form of the establishment of the GOEI in 1998. Again, ‘adaptive Europeanisation’ began only with the regime change in 2000 - meaning that Europeanisation required prior political change at the domestic level. Thus the momentum of ‘adaptive Europeanisation’ preceded the membership talks and coincided with the re-launch of the democratisation processes in the country. Hence, at the very early stages of ‘adaptive Europeanisation’, adaptation processes bore a ‘democratic logic’. Parallel to the democratic logic of Europeanisation, an overlapping and interactive (second) logic was in operation through the EU’s OBNOVA and CARDS projects (and at a later stage through the accession negotiations): the ‘member-state-building’ logic. With EU money and technical assistance Croatian state elites, as early as 2000 (if not earlier, as was the case with the OBNOVA post-war reconstruction projects), began to get acquainted with EU thresholds/standards in various sectors. The negotiations opened in 2005 were an

important way (the most effective, one could say) of exerting disciplinary influence on state elites by means of ‘monitoring/benchmarking’ and ‘gate-keeping’ (cf. Grabbe, 2006), thus conditioning (formal) compliance. Significantly, in the case of Croatia, the ambitious and draconian EU ‘member-state-building logic’ of conditionality largely reflects lessons from the Union’s past enlargements as well as the ‘enlargement fatigue’ of some EU member-states.

8.3.2. Distinct and overlapping drivers of change

Post-2000 Europeanisation processes have run simultaneously and, to some extent, in conjunction with other processes of domestic change in Croatia. For instance, the 2000/1 constitutional amendments owed more to the new government’s post-authoritarian democratisation efforts than to the EU. The ‘democratic logic’ of Europeanisation coincided, however, with the internal prompts of liberalisation, making regime turnaround a much less possible scenario. Again, Europeanisation processes were distinct from, yet inter-connected and co-ordinated with, globalisation processes of ‘good governance’, as the civil service reform case suggests.

8.3.3. Temporal trajectory

Finally, Europeanisation processes had different degrees of intensity, which in turn hinged on the country’s various forms of institutionalised relationship with the EC/EU as well as patterns of domestic governance (communist, nationalist, liberal). Europeanisation had periods of acceleration and braking and operated through various stages ranging from mutual cooperation (1970-1991), to isolation (1992-2000), to association (2001-2005), to accession negotiations (2005-2010). Prior to the opening of accession negotiations in 2005 (a key moment which signalled the country’s credible membership prospects), EU-related adaptation was patchy and selective (if not negligible altogether), meaning that indigenous reform processes or inertia characterised Croatia’s institutional development. With the regime change in 2000 and the subsequent institutionalisation of EU-Croatian relations (SAA), Europeanisation processes took off (see Table 8.1), albeit only temporarily given that large segments of the country’s state apparatus remained unchanged throughout Račan’s premiership (2000-2003), with the Tuđmanist forces obstructing reforms. When the liberalised HDZ returned to office under the moderate Sanader in late 2003, the stalled

Europeanisation processes were re-initiated and accelerated considerably between 2004 and 2005, that is, just prior to the opening of accession negotiations, before slowing down again around 2006 and 2007. The resultant de-acceleration was partly due to the high costs of domestic adaptation underpinning much of the required reforms and the EU's inconsistent rhetoric with regard to the country's prospect of membership, as Croatia's accession became subject to the Union's absorption capacity requirement and corresponding unsuccessful institutional reform (Lisbon Treaty). Europeanisation processes accelerated in 2008 under Sanader's broader coalition government, with the Slovenian blockade affecting the tempo of reforms, but not markedly as the government was assured over the country's credible accession prospects. Following Sanader's quitting, Kosor's advent in office, the resolution of the border issue between Slovenia and Croatia, and the ratification of the Lisbon Treaty in December 2009, Croatia's adjustment process accelerated markedly in view of the conclusion of accession negotiations at the beginning of 2011.

Table 8.1 Institutional Evolution and EU Conditionality

(Pre-)Communist Era (2000s-)	Nationalist Era (1990s)	Europeanist Era
		<i>Start of accession negotiations (2005)</i>
LoA (1978) (2005)	SCSEA (1994)	CSEA (2001) / new CSA
GAPA (1976)	'Transplantation' of the old GAPA (1991)	new GAPA (2009)
ADA (1952)	'Transplantation' of old ADA (1991)	new ADA (2010)
LPBRD (1971)	No distinct RDA	new RDA (2009)

LoA: Law on the Basics of the System of the Public Administration, Federal Executive Council, and Federal Administrative Organs

SCSEA: State Civil Servants and Employees Act

CSEA: Civil Servants and Employees Act

CSA: Civil Service Act

GAPA: General Administrative Procedures Act

ADA: Administrative Procedure Act

LPBRD: Law on Promotion of Balanced Regional Development

RDA: Regional Development Act

Sources: Author's compilation

Why has the Europeanisation of Croatian policy evolved in this way? The analysis suggests that both domestic and EU-related factors account for this 'sluggish' pattern of Europeanisation. On the domestic track, the high adoption costs, related to the country's bleak democratic standards as well as to limited cooperation with the ICTY, have, on several occasions, slowed down the tempo of Europeanisation processes. In the 1990s Tudman's authoritarianism and irredentism 'ousted' Croatia from the group of the CEE acceding countries. Again in 2005, the reluctance of the first Sanader-led government to cooperate with the ICTY on the Gotovina issue postponed the opening of membership negotiations. In fact, in the case of Croatia (as well as in the rest of the Western Balkans), Europeanisation processes have confronted legacies of ethnic conflict and post-communist authoritarianism, thus requiring painful shifts in the country's newly-built national identity (see also Schimmelfennig, 2008; Freyburg and Richter, 2010). Therefore, under circumstances where the prospect of EU membership is credible a 'sluggish' and 'shallow' (Goetz, 2005) trend of Europeanisation, seems a legitimate compliance ploy on the part of the Western Balkan countries when national identity runs counter to EU (democratic) requirements.

On the EU side, the tempo of the Europeanisation of Croatian policy was affected by a multitude of intervening factors which included, *inter alia*, the draconian set of conditions for the Western Balkans, lessons learnt from past enlargements (e.g., benchmarking), personalistic strategies by individual member states (see the Slovenian blockade), and the EU's institutional crisis.

Overall, for all these reasons Grabbe et al. (2010: 2) are right in noting that 'Even if Croatia accedes as expected, around 2013, it will have taken 10 years from its date of application and eight years from the start of accession talks'. In this respect, it would have taken Croatian authorities three more years to conclude negotiations than was the case for Hungary, Poland and Slovenia (see Lippert et al. 2001: 986).

8.4. The extent and direction of institutional change

What can be learned by placing Croatia in the comparative Europeanisation literature? The preceding sections occasioned little surprise for students of candidate-state Europeanisation. Indeed, taken together, the 'singularisation' and brief 'comparative

contextualisation' of the Croatian case suggest that the overall pattern of enlargement-driven domestic impact is, in fact, closer to that of the other former communist new EU entrants: differential rule adoption susceptible to the mitigating power of domestic politics. At first glance, this might seem a striking finding considering that, first, Croatia, unlike the other CEECs, experienced warfare and authoritarianism in the aftermath of the communist breakdown and, second, belonged to a different (and arguably much more stringent and uncertain) enlargement round (see Chapter 4). Croatia's unique characteristics notwithstanding, the analysis suggests that *credible membership perspective does matter a lot even in challenging settings such as those of the war-torn Western Balkans*. Broadly, such a finding illustrates in turn the robustness of the 'top-down' theoretical explanations on 'candidate Europeanisation' in general, and of the conditionality argument in particular, advanced by scholars such as Schimmelfennig and Sedelmeier (2005b), Vachudová (2005), Grabbe (2003, 2006) and Jacoby (2004).

In particular, as in the eastward enlargement round (cf. Dimitrova and Maniokas, 2004: 185; Schimmelfennig and Sedelmeier, 2005c), the analysis showed that, broadly speaking, the 'EU matters' when its membership incentive is credible, when it ascribes salience to a particular issue and when the costs of compliance are not prohibitively high for the target government. At first sight, the overall picture is one of *tremendous* formal change and/or innovation despite the irregular and uneven Europeanisation effects, in terms of time, scope, and between domains and locations (national and sub-national). Without a doubt, a raft of *material* institutions and/or formal rules have been challenged, re-directed, re-shaped and/or created in Croatia. For example, old and path-dependent institutions such as GAPAs and ADAs were effectively replaced under the EU's conditional incentives. Moreover, as shown in the case of regional development, new rules were introduced (RDA) filling in an institutional vacuum in this sector. While the EU had a limited effect on the country's territorial map, this was mainly due to the absence of a regionalisation *acquis* and interest on the part of the European Commission in territorial re-structuring beyond NUTS standardisation. Finally, despite earlier reform attempts in the civil service sector, it was the EU (in coordination with the World Bank) that conditioned the genuine modernisation of the old legislation through the introduction of the CSA in 2005. The empirical analysis also showed that, in the enlargement context, the dominant mechanism of the EU influence was indeed conditionality (cf. Schimmelfennig and Sedelmeier, 2005c,

2007) and its various ‘mechanisms’ (e.g. ‘gate-keeping’, money, technical advice, benchmarking and monitoring; Grabbe, 2003, 2006). While initially the EU’s role in influencing change was quite limited, soon after the commencement of accession talks the EU became in effect the most powerful driver of reform in the country, superseding other IOs such as the World Bank. This is further corroborated by the fact that EU accession became eventually the ultimate strategic goal of successive Croatian governments.

In terms of the direction of change, in some cases such as the civil service reform and regional policy-making, Europeanisation appeared as having an *interactive* sense (Dyson and Goetz, 2003a) as domestic actors, empowered as they were by the integration process, tried to influence decision-makers’ institutional choices from the ‘bottom up’. But, even within these cases, the *top-down* dimension of conditionality-led Europeanisation seems *better* able to explain the modalities of domestic adaptation and/or institution-building in the country. In effect, as in the eastward expansions of the EU, the Croatian version of EU enlargement policy remains the *par excellence* and most visible instance of ‘top-down’ Europeanisation. In this respect, domestic opposition failed to effectively prevent the adoption of EU rules that were subject to credible conditionality, as theory predicts (cf. Grabbe, 2003; Schimmelfennig and Sedelmeier, 2005c, 2007). In short, *the EU’s ‘top-down’ leverage (when present and credible) was indeed penetrative and transformative (at least in terms of formal rule adoption), superseding domestic resilience.* But this is not to suggest that domestic politics were causally irrelevant with regard to processes of Europeanisation. As theory suggests (Schimmelfennig and Sedelmeier, 2005c; Sedelmeier, 2006), domestic politics affected the temporal context, nature and effectiveness of the new rules.

8.5. Understanding institutional evolution, resilience and domestic outcomes

As suggested in Chapter 3, the term ‘institutional evolution’ denotes the various episodes of institution-(re-)building, continuity, change and/or dismay *over time*. The utilisation of this concept was particularly helpful in tracing instances of continuity, as well as ‘breaking points’. In this respect, it provided a ‘corrective’ to the largely *a*-historical accounts of conditionality-led Europeanisation. In other words, the term directed us towards more nuanced accounts of institutional reform by pointing towards the origins and historical evolution of a given institution. In this respect, the term ‘institutional evolution’ shifted the

focus towards the much neglected ‘candidate Europeanisation’ accounts area of *domestic politics*.

Indeed, despite the fact that ‘national institutions and actors matter’ is a common mantra in both East and West Europeanisation studies (cf. Goetz, 2000; Börzel and Risse, 2003; Schimmelfennig and Sedelmeier, 2005c), very little is known in ‘candidate Europeanisation’ studies about the nature and shaping power of domestic politics (cf. Sedelmeier, 2006: 20), or about the specificities of institutions in the post-communist settings (Dimitrov et al. 2006: 249). Indeed, the conceptualisation of domestic politics remains inchoate. We still lack knowledge concerning the crucial questions of ‘institutional development’, ‘resilience’, ‘politicisation’ and ‘institutionalisation’. Unpacking the ‘black box’ of domestic politics is thus crucial in understanding the ‘implementation’ and ‘enforcement’ stages; that is, the extent of Europeanisation effects and/or their durability. In short, we need to think more about the new institutions, their configurations, forms and degrees of institutionalisation and the context within which they operate. As Chapter 3 argued, institutionalist theories provide a useful point of departure.

Resilience has emerged as a crucial variable explaining the ‘shallow’ (Goetz, 2005) Europeanisation effects in Croatia. Paul Pierson (2004: 142; emphasis added) has suggested that, ‘Because resilience is a *variable*, and because its effects may be to channel rather than simply prevent institutional reform, a careful exploration of its roots can help us to think more about the prospects for ‘bounded’ institutional innovation (Thelen, 1999, 2003, 2004)’. This study’s ‘bottom-up-down’ analytical design (cf. Vink and Graziano, 2007; Radaelli and Pasquier, 2007), apart from helping gauge the (potentially) transformative power of the EU, perhaps most significantly, helped us see more clearly the (often conflictual) politics underpinning the domestication of EU rules, their politicisation and scope of institutionalisation (cf. Radaelli and Pasquier, 2007). Resilience in the case of Croatia has taken many different forms (voluntary and involuntary) and has been evident both in the period preceding compliance and afterwards (implementation). It has varied between low ‘reform capacity’ (lack of integrated political leadership matched with veto-players), historically embedded institutional legacies, generalised resource shortages such as low administrative and financial capacity (involuntary change-resilient points, themselves by-products of institutional legacies and contemporaneous financial

stringencies), high political adjustment costs, high co-ordination costs and non-receptive political elites (lack of political will). Thus domestic resilience, which in many respects reflects the limits of governability of the modern Croatian state, channeled external prompts for reform, making governing elites opt for varying routes of compliance: ‘layering’, ‘replacement’, or innovation (cf. Pierson, 2004, Thelen, 1999, 2004). The ‘compliance’ effects ranged, in turn, between transformation, absorption, accommodation, and inertia. All these suggest that, indeed, Europeanisation has *indeterminate effects* and may take many forms, subject to its limitations and the filtering power of domestic politics, and thus to ‘equate Europeanization with transformation is to “define away” much of the subtlety of the European effect’ (Dyson and Goetz, 2003b: 373).

8.6. Conclusion: Living with Europe

It is perhaps still too early to say whether the new or adapted institutions would become embedded and thus endure in the aftermath of Croatia’s accession to the EU and the subsequent retreat of accession conditionality (cf. Epstein and Sedelmeier, 2008; Sedelmeier, 2008). That it is too early to say with regard to rules that have been adopted instrumentally and under hierarchical means of compliance (conditionality; RCI) rather than on the grounds of ‘normative resonance’ (SI) between international (EU) and national understandings. In other words, instrumental compliance may suffer from a legitimacy problem and therefore pre-accession institutional engineering and adaptation may be contested post-accession. As Schimmelfennig and Sedelmeier (2004: 676; cited in Sedelmeier, 2008) contend: ‘Once on the inside, resentment against such rules can therefore not only lead to strategic non-compliance, but to an open backlash against rules that are perceived as unfair external impositions’.

According to Olsen (2000:4-5; cited in Laffan, 2007: 137) ‘institutionalisation’ is a multifaceted concept that implies structuration, routinisation, and the development of standard operating procedures and shared codes of meaning. In short, institutionalisation implies something more than simply material engineering. It points to behavioural change. Most broadly, the analysis has detected formal rule adoption, that is, material change or design under conditions of pronounced scarcity. Yet, there is also some tentative evidence of the degree of institutionalisation. For instance, the cases of civil service restructuring and general administrative procedures reform suggest patterns of ‘shallow

Europeanisation' and 'institutionalisation for reversibility' (Goetz, 2005). Indeed, such patterns of 'light institutionalisation' may be particularly pronounced in cases where there was considerable uncertainty and resource shortage, as well as where political conflicts over institutional choices and external direction played a powerful role (cf. Dimitrov et al. 2006: 19-20).

All these raise the question of post-accession sustainability (Dimitrova, 2010) as there are good reasons to expect that, given the current status of 'partial compliance' or 'bounded transformation' in Croatia and the subsequent lifting of accession conditionality in the aftermath of EU entrance, Croatian state elites would defer continuing adaptation or even reverse existing structures (cf. Sedelmeier, 2008). This assumption is further reinforced by the low degree of involvement and mobilisation of Croats in enlargement politics and debates, their persistently Euro-sceptic stances (they are themselves by-products of the high costs of compliance with EU rules relating to, *inter alia*, the ICTY extraditions that challenged elements of national identity) and corresponding resistance to implementing reforms. At the same time, as in the other CEECs (cf. Vachudová, 2008), there is an increased likelihood that following accession, political competition will resume in the Croatian parliament, with European integration becoming a cross-cutting and politicised issue among political parties, particularly those with nationalist and culturally conservative positions.

Although all these factors may seem to favour a 'shallow' notion of EU impact, that is, the building of 'tents rather than castles' to use Dimitrov et al.'s (2006: 20) famous contention, there is still some optimism that pre-accession adaptation will continue following Croatia's entrance to the EU and that extensive reversibility will not occur. First, there might be a structural bias in favour of institutionalisation: 'stickiness' (cf. Pierson, 2004). Despite the high costs of pre-accession adaptation, once an institutional arrangement has been established its dismantling would not be cost-free, especially when new actors with veto power benefit from its existence. It is therefore possible that 'self-reinforcing processes' and 'sunk costs' would make reversals very difficult (Pierson, 2004; Thelen, 1999, 2004). In other words, path dependence will trump institutional vulnerabilities. Second, though not evident in the analysis, socialisation and social learning might have occasioned much

adaptation even in cases where conditionality was present. After all, as noted in Chapter 3, the present study acknowledged from the outset the ‘embedded rationalism’ of actors (Jacoby, 2004). In this respect, socialisation did occur and national actors did get socialised by EU institutions and actors; yet the effects of their socialisation are gradual in nature and therefore not easily discernible in the short-term where precisely instrumentalist mechanisms of compliance such as conditionality reign. In this reading, the potential persistence of the new institutions post-accession may testify to the slow-motion causal relevance of socialisation and normative resonance - structural features which in the long run tend to foreclose institutional trajectories, thus generating ‘self-reinforcing’ processes which in turn shape actors’ identities as well as the parameters of future institutional evolution.

Appendix: List of Interviewees

Aldworth David - Regional Development Expert/ Training Specialist-Regional Development Capacity Building Facility (CARDS 2004).

Boromisa Ana-Maria - Research Associate, Department for International Economic and Political Relations, Institute for International Relations (IMO), Zagreb.

D. D. - Expert Assistant; Central Office for Development Strategy and Coordination of EU Funds (CODEF); member of the Working Group for the Chapter 23 'Regional Policy and the Co-ordination of Structural Instruments.

Dulabić Vedran - Co-ordinator for the Regional Development Act Legal Framework, ECORYS.

Fröhlich Zlatan - President of Croatian Chamber of Economy.

Galeski Patrick - Deputy Director of Varaždin County Development Agency.

Grabar-Kitarović Kolinda - Minister of Foreign Affairs and European Integration.

Grubiša Damir - Professor of Political Science, Faculty of Political Science, Zagreb.

H. D. - Head of Section, Political, Economic, Trade and Press & Information Section, EU Delegation in the Republic of Croatia.

Ilišin Vlasta - Institute for Social Research in Zagreb.

Jurlina-Izetbegović Dubravka - member of the Working Group for the Chapter 23 'Regional Policy and the Co-ordination of Structural Instruments'.

Kasunić-Peris Marina - Head of Industrial Democracy Department in the Union of Autonomous Trade Unions of Croatia.

Koprić Ivan - Professor of Administrative Law, Faculty of Law; member of the GAPA Working Groups.

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Glossary: List of Abbreviations

AASSC - Act on Areas of State Special Concern
AC - Administrative Court
ADA - Administrative Dispute Act
AoC - Association of Counties
AoTM - Association of Towns and Municipalities
AP - Accession Partnership
AZRA - Varaždin County Development Agency
CARDS - Community Assistance for Association, Democratisation, and Stabilisation
CDA - County Development Agency
CEE - Central East Europe
CEECs - Central East European Countries
CEFTA - Central European Free Trade Areas
CODEF - Central Office for Development Strategy and Coordination of EU Funds
CRED - Concept of Regional Economic Development
CRO - Croatian Regions Office
CSA - Civil Service Act
CSEA - Civil Servants and Employees Act
CSOA - Central State Office for Administration
DA - Dalmatian Action
DC - Democratic Center
DIRD - Directorate for Integrated Regional Development
DIIRD - Directorate for Island and Regional Development
ECHR - European Convention on Human Rights
ECJ - European Court of Justice
EP - European Partnership
EU - European Union
EUT - European Union Treaty
GAPA - General Administrative Procedures Act
GOEI - Government Office for European Integration
HDSSB - Croatian Democratic Assembly for Slavonia and Baranja
HDZ - Croatian Democratic Union
HI - Historical Institutionalism
HMAA - Hilly and Mountainous Areas Act
HNS - Croatian Peoples' Party
HRK – Croatian Kuna
HSLS - Croatian Social Liberal Party
HSP - Croatian Party of Right

HSS - Croatian Peasants' Party
 ICTY - International Criminal Tribunal for the former Yugoslavia
 IDA - Istrian Development Agency
 IDS - Istrian Democratic Assembly
 IFIs - International Financial Institutions
 IMF - International Monetary Fund
 IOs - International Organizations
 IPA - Instrument for Pre-Accession Assistance
 ISPA - Instrument for Structural Policies for Pre-Accession
 LEDA - Local Economic Development Agency
 LP - Liberal Party
 LRSGA - Local and Regional Self-Government Act
 MEI - Ministry of European Integration
 MFAEI - Ministry of Foreign Affairs and European Integration
 MIP - Multi-annual Indicative Plan
 MoA - Ministry of Administration
 MoF - Ministry of Finance
 MoJALSG - Ministry of Justice, Administration and Local Self Government
 MPs - Members of Parliament
 MPWRC - Ministry for Public Works, Reconstructions and Construction
 MRDFWM - Ministry of Regional Development, Forestry and Water Management
 MSTTD - Ministry of Sea, Tourism, Transport and Development
 NARD - National Agency for Regional Development
 NATO - North Atlantic Treaty Organization
 NCC - National Competitive Council
 NGOs - Non-Governmental Organizations
 NI - New Institutionalism
 NISP - National Island Development Programme
 NSRD - National Strategy for Regional Development
 NSRF - National Strategic Reference Framework
 NUTS - Nomenclature des unités territoriales statistiques
 OECD/SIGMA - Organization for Economic Cooperation and Development/ Support for Improvement in Governance and Management
 OEI - Office for European Integration
 OG - Office of Government
 OP - Operational Programme
 PAL - Programmatic Adjustment Loan
 PAR - Public Administration Reform
 PHARE - Poland and Hungary: Assistance for Restructuring their Economies

PM - Prime Minister
PSWA - Public Service Wage Act
RCI - Rational Choice Institutionalism
RDA - Regional Development Act
RDP - Regional Development Policy
RGDP - Regional Gross Domestic Product
RiDS - Rijeka Democratic Alliance
ROP - Regional Operational Programme
RP - Regional Policy
RTT - Round Table Talks
SAA - Stabilisation and Association Agreement
SAP - Stabilisation and Association Process
SAPARD - Special Accession Programme for Agriculture and Rural Development
SARS 2008-2010 - State Administration Reform Strategy for the period 2008-2011
SCF - Strategic Coherence Framework
SCSEA - State Civil Service and Employees Act
SCSEPSA - Salaries of the Civil Servants and Employees in Public Services Act
SDP - Socialist Democratic Party
SDLSN – Trade Union of State and Local Government Employees of Croatia
SDSS - Serbian Independent Democratic Party
SEE - South East Europe
SFRY - Socialist Federative Republic of Yugoslavia
SHS - Kingdom of Serbia, Croatia and Slovenia
SI - Sociological Institutionalism
SRC - Socialist Republic of Croatia
UNDP - United Nations Development Programme
USA - United States of America
USAID - United States Agency for International Development
VIRA - Višnjan Development Agency
ZERP- Protected Ecological and Fishery Zone

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