Croatia: EU accession enhances public sector transparency

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As the legislative body of a country that was awarded EU candidate status in 2004, the Croatian parliament has been busy modifying Croatia’s laws and harmonising them with EU legislation. Integration and ultimate membership into the European Union, through adoption of European standards, is now a significant challenge.

Introduction

Recognising the importance of information technology (IT), the Croatian government has, over the past five years, adopted a number of initiatives and corresponding laws aimed at developing an information society. In that context, the Central State Administrative Office for e-Croatia was formed, a number of government services have been offered online and several online databases of court precedents have been introduced.

However, despite these ambitious efforts, according to the Global Information Technology Report 2008-2009 published by the World Economic Forum, Croatia is still lagging behind in its usage of IT in public, state administration processes and services. So, to further develop information and communication technology (ICT), more needs to be done to raise awareness and understanding of the information society, and to engender commitment across all sectors of the economy and society.

For the public to take full advantage of the government’s initiatives, access to the internet needs to be full and widespread. According to The Global Information Technology Report, in 2007, 43.8 per cent of Croatians had access to the internet, internet bandwidth per 10,000 people was 25.26 megabytes per second, and Croatia was ranked 49th in the Network Readiness Index. These figures, compared with the top 10 performers, demonstrate that Croatia still has further challenges in the development of ICT.

The chart is based on the Networked Readiness Index (NRI). It shows the degree of readiness of individuals, business and the government in Croatia to participate in and benefit from ICT, in comparison with actual usage.

Chart 1: ICT development in Croatia

The results shown draw on key figures, such as internet users per 100 people, internet bandwidth measured in megabytes per second.


3. For example, in Denmark, which ranked first, 64.31 per cent of the population have access to the internet, and internet bandwidth per 10,000 people is 346 megabytes per second.
second per 10,000 people, mobile telephone subscribers per 100 people, availability of government online services and the extent of internet use in the workplace.

The NRI was developed by INSEAD Graduate Business School in 2002 as part of an ongoing joint research project with the World Economic Forum.

**Ongoing ICT initiatives**

**Central State Administrative Office and e-Croatia**

The Central State Administrative Office for e-Croatia (the Office) is a central government agency founded in 2003 to help develop information systems across government agencies.

One of the Office’s main tasks is to establish a uniform framework for ICT at all government offices and to set technical standards for the use of IT in the public sector. The Office also helps to prepare and monitor normative and expert frameworks for Croatia’s accession to the European Union relating to the information society and the media, and to promote and improve an information infrastructure.

Under the Office’s purview, e-Croatia (e-Hrvatska) was introduced in 2003 and quickly emerged as a priority of the Croatian government. The initiative will enable the public to access a large number of government services online.

**HITRONet network**

In 2004 the Croatian Financial Agency (FINA), a government-owned company for financial transactions, was entrusted with developing the IT communication network for state administration bodies, known as HITRONet. HITRONet is an information-communication network which connects various bodies of state administration and provides common internet access, technical support to end-users, system security and a subsystem of common network and application services.

One of the HITRONet programmes, HITRO.HR, is based on the concept of a “one-stop shop” and offers individuals and companies comprehensive information about required documentation, as well as forms and money orders on the HITRO.HR web site.

HITRO.HR provides several services, including:

- **e-Tax (e-Porezna)**, which enables all taxpayers (legal and natural persons) in Croatia to file their tax returns and forms electronically
- **e-VAT (e-PDV)**, which enables all payers of value-added tax (VAT) to deliver periodical VAT account data online
- **e-Health (e-Zdravstvo)**, which enables companies to submit applications for registration and de-registration of, and to change information on, their employees
- **e-Pension (e-Mirovinsko)**, which enables companies to register their employees and submit any changes to, and termination of, their insurance online.

It is noteworthy that in its 2009 evaluation of top performers and improvers in the key areas of electronic filing and compliance, Companies House (the UK government register of UK companies) positively evaluated HITRO.HR.4 The Companies House report notes that the opening of HITRO.HR offices around the country meant that five steps related to company incorporation could be completed by one office instead of having to go to different offices or send documents via regular mail.

Nevertheless, despite a predominantly positive attitude towards doing business electronically, HITRO.HR’s potential does not seem to have been fully utilised. One study showed that the main reasons for this were lack of information about the services, a habit of doing business in a traditional way, the perception that companies do not have sufficient technology for e-business and concerns relating to the security of information.5

**The eSEE Initiative**

The aim of the Electronic South Eastern Europe Initiative (eSEE Initiative) is to promote an institutional environment equipped for an information society in line with EU policies. It also aims to coordinate the introduction of ICT projects in various fields, such as business, governance, health and education.

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4. See Companies House, Department for Business Enterprise and Regulatory Reform (March 2009), “World class indicators”.

The eSEE Initiative is chaired by Croatia and backed by the Secretariat, which is based in the United Nations Development Programme’s (UNDP) Sarajevo office.

The eSEE Initiative is part of the Stability Pact for South Eastern Europe and implements the eSEEurope Agenda for the Development of the Information Society (the eSEE Agenda). This Agenda was signed in 2002 to better integrate the Pact’s member countries into the process of building an information society with EU member states – decade-long political instability in the region has meant it lags behind EU member states in this regard.

In the eSEE Agenda, the Pact’s member countries agreed to pursue the following objectives:

- organisation – through the establishment of an institutional framework for an ICT-based society
- legislation – through introduction of new legislative frameworks for an ICT-based society
- regulation – through liberalisation, privatisation, policy and strategy related to electronic communications infrastructure and associated services
- promotion – through encouragement of civil society, non-governmental organisations and joint e-governance, e-learning and other region-based activities.

By signing the Pact, governments also committed to, among other things, providing budgetary funding for their appointed representatives, covering any local costs of the functioning of the eSEE Working Group and meeting quarterly to review individual progress in relation to the countries’ commitments under the agreed agenda.

Projects under this initiative are coordinated by the Croatian Ministry of Justice (Ministarstvo pravosuđa). What follows is an overview of some of the databases and online registries most widely used by legal practitioners.

Online Land Registry
Croatia has been in the process of computerising its Land Registry. This process is still ongoing. However, it is currently possible to search most of the Land Registry books online and obtain an electronic Land Registry extract for a property that has been entered into the database.

In May 2005 an online service for a digital Land Registry with access to databases of around 50 courts became accessible to the public. By the end of 2005, all 87 courts which enter data in digital form opened a digital Land Registry and all municipal courts became equipped for digital entry of Land Registry data. These data are consolidated into a single central Land Registry.

It is important to note that electronic extracts are not considered official documents when it comes to using them for collateral purposes. Only extracts obtained in paper directly from the Land Registry have the legal power; the same applies to cadastre extracts. The digital Land Registry can be accessed through: http://e-izvadak.pravosudje.hr/mpweb/main.jsp.

In addition, the e-Cadastre service enables online insight into the legal status of properties in Croatia, based on a number of the relevant land plot and cadastral municipality data. Considering that e-Cadastre contains stored information on all cadastral plots in Croatia, which makes it the most complete database on spatial conditions in the country, it is becoming very important in solving cadastre-related issues. E-Cadastre is available at: http://katastar.hr/dgu/ind.php. Searching all of these databases is entirely free of charge.

Electronic registries and databases
The e-Justice initiative (part of e-Croatia) aims to introduce IT into the justice system.

6. Albania, Bosnia and Herzegovina, Croatia, FYR Macedonia, Moldova, Montenegro and Serbia.


8. Id.

Croatian Court Registry. The Registry contains information on the name of the company, its headquarters, business activities, board members and equity capital. Access to the Registry first became available in 1995. The Registry may be accessed at: https://sudreg.pravosudje.hr and is free of charge.

**Online database of High Commercial Court decisions**

As of March 2009, an online database of selected decisions allows the public to view decisions of the High Commercial Court (Visoki trgovački sud) in the first and second instances. The project was carried out by the association Sudačka mreža (referred to as the “Judges’ web” in English) with the financial support of the Norwegian Ministry of Foreign Affairs. The judges of the High Commercial Court also participated in the project’s implementation.

At the time of writing, the database contained about 22,000 High Commercial Court decisions and about 1,200 first instance decisions issued by the country’s lower commercial courts. Searching of the database is possible due to an index of more than 4,000 key words suggested by the High Commercial Court judges. The aim of the database is to increase transparency of the courts’ and judges’ work and the project is thus viewed as an anti-corruption measure. The public can access the database via the Sudačka mreža web site at: www.sudacka-mreza.hr. The use of the database is entirely free of charge.

**Online database of Supreme Court decisions**

Since December 2003 the Supreme Court of the Republic of Croatia (Vrhovni sud Republike Hrvatske) has been publishing texts of court decisions on the internet (anonymising the parties, names). Similar to the online database of the High Commercial Court decisions, the aim of this is to increase the efficiency and transparency of the Court’s and judges’ work. The published cases go as far back as 1993. The web site offers a full text search of court decisions in HTML format in Croatian. The site also contains expert papers written by the Supreme Court judges.

The public can access the database via the Supreme Court web site at: http://sudskapraksa.vsrh.hr/SuPra/ entirely free of charge.

**Narodne Novine**

The list of free online sources of legal information would not be complete without mentioning Narodne Novine, which is Croatia’s Official Gazette and considered by many to be the primary source of legislation online. It publishes laws, regulations, official decisions and up-to-date amendments thereto and releases them in the public domain. Narodne Novine is also published in paper form and its online contents can be accessed at: www.nn.hr. In 2001 Narodne Novine, a publishing company that publishes the Official Gazette, decided to charge a fee for online searches of its contents. However, following pressure from GONG, a non-governmental organisation devoted to the development of civil society, the company soon decided to provide searches of its online content free of charge.

**Intellectio Iuris**

Intellectio Iuris is the largest commercial database in Croatia for legal research and documentation, available at: www.pravnadatoteka.hr. The online database has existed since March 2002 and is updated twice a month. The information it provides is taken directly from official sources and is thus reflected objectively. The database contains two categories of entries: the first contains court decisions, while the second encompasses academic papers. Given that academic papers often cite court decisions, the database is organised in a way that allows the user to retrieve the relevant court decision.
by entering the title of the article in the search field “notes” (napomena). This is a highly useful feature because it provides access to court decisions that are not typically available in the courts’ official publications and are only known to the authors of the papers.

The database contains its own search engine using Boolean terms and allows for searches in the following seven fields: title (naslov); source (izvor); year/number (god/br); author (autor); key words (ključne riječi); area of law (grana prava) and notes (napomena). These fields may be searched individually or simultaneously. Another valuable feature of the database is that it contains opinions of legal experts on certain court decisions. If an expert, in their discussion of a legal issue, agrees with a court decision, the field titled “notes” (napomena) contains an exclamation mark: “!”. On the other hand, if an expert’s article questions the validity of a court decision, the field titled “notes” contains a question mark: “?”.

The database is not free of charge and an annual subscription costs Kuna 22,000 (approximately €3,000). Its main users are law firms and in-house legal departments of corporations.

Overview of relevant legislation

For ICT initiatives to be successful, an effective legal framework is indispensable. In that respect, Croatia recently adopted a number of laws to support ICT development and its application in the business sector, such as the Electronic Signature Act, the Electronic Commerce Act, the Personal Data Protection Act, the Right to Information Act, the Information Secrecy Act and the Information Security Act. In continuation, an overview of the Right to Information, Information Secrecy and Information Security Acts is provided.

Right to Information Act

The Croatian Right to Information Act (Zakon o pravu na pristup informacijama, Official Gazette, No. 172/03) was enacted in October 2003. The Act gives a general right of public access to all types of “recorded” information held by public authorities, sets out exemptions from that general right and places a number of obligations on public authorities. The Act also obligates public authorities to provide the requested information and to publish it, even when publication has not been specifically requested, but is prescribed by law or another regulation. The Act applies only to public authorities and not to private entities. Public authorities are defined to include government departments, local authorities and other public bodies.

The right to information does not obviate the need to protect such information nor does it imply that everyone has a right to any information; instead, such a right is based on the “need to know” by interested parties. Public authorities may deny access to requested information if the relevant information has been classified as a state, military, official, professional or business secret, and if it is protected under the law which prohibits disclosure of private information. In addition, the right to information may be temporarily denied (for example, if there are reasonable grounds to believe that disclosure of such information would have a negative impact on the prevention and investigation of a felony), but must be disclosed once the grounds for such non-disclosure have ceased to exist.

In October 2008 Transparency International Croatia, a non-governmental organisation devoted to the increase of governmental accountability and suppression of corruption, together with GONG, organised a number of educational activities, the goal of which was to inform citizens about the Right to Information Act and encourage public authorities to increase their efforts in providing the public with information. Research conducted by these and other non-governmental organisations indicated that fewer than 50 per cent of Croatian citizens were even aware of the existence of the Right to Information Act. Further research also indicated that public authorities frequently failed to provide a
This suggests that practical implementation of the Right to Information Act may not be as effective as it might appear based on the government’s annual reports and that additional education and training activities might be needed.

Information Security Act
In July 2007 the Croatian parliament enacted the Information Security Act (Zakon o informacijskoj sigurnosti, Official Gazette, No. 79/07). The purpose of the Act was to harmonise Croatian legislation with the EU requirements on information security. Hence the Act introduces the concept of information security, information security measures and standards, as well as competent authorities for the implementation and enforcement of these measures and standards. The Act applies to government agencies, local and regional authorities and other entities with public authority that, within their scope of work, use classified and unclassified information, as well as to legal and natural persons who gain access to classified and unclassified information.

The Act further stipulates that information security measures and standards shall be determined for both classified and unclassified data. Information security measures and standards encompass the following:

- oversight of access to and handling of classified information
- procedures in connection with unauthorised disclosure and loss of classified information
- emergency situation measures
- set-up of special databases for information classified in the Republic of Croatia and for classified information rendered by another country, international organisation or institution with which Croatia cooperates.

The Act establishes the Office of the National Security Council as a central state authority entrusted with coordination, implementation and enforcement of the information security measures and standards in Croatia, as well as with the exchange of classified and unclassified information between Croatia and other countries and international organisations.

Further, the Act also establishes the Information Systems Security Bureau as a central state authority for technical areas of information systems security. Lastly, the Act establishes CERT (the Computer Emergency Response Team) – a national authority responsible for the prevention of and protection from computer-related threats to public information systems in Croatia.

Secrecy of Information Act
Along with the Information Security Act, in July 2007, the Croatian parliament also enacted the Secrecy of Information Act (Zakon o tajnosti podataka, Official Gazette No. 79/07). The Act lays down the principles of a common system to determine and safeguard access to classified information regarding public security, defence, foreign affairs and the intelligence and security services, and for the classification of that information. The Act applies to all government agencies, local and regional authorities, holders of public authority and other entities which, in performing their duties, acquire or gain access to such classified information, as well as to individuals working in these agencies and companies.

In view of possible adverse effects that disclosure of classified information to unauthorised persons might have on the security of the country or its political or economic interest, such information may be assigned one of the following levels of classification: top secret, secret, confidential or restricted. The first two classifications (top secret and secret) may be assigned only by the President of the Republic, the President of the National Assembly, the Prime Minister, the Attorney General, ministers, certain military commanders and heads of information intelligence units within the government. In addition to these individuals, the “confidential” and “restricted” classifications may also be assigned by heads of other government agencies.

For more information on the Office of the National Security Council, its competencies, scope of work and members, please see the Office’s English language web site at: www.uvns.hr/main.aspx?id=126, last visited on 28 April 2009.
It is interesting to note that the first draft of the Act, which was presented to the public in 2006, stipulated that if a document contained both classified and non-classified information, the entire document would be deemed classified. Non-governmental agencies argued against this provision for being contrary to the Right to Information Act. Consequently, the final version of the Act which made it through the parliament states that if a document contains both classified information and information which does not prejudice the security of the country or its political or economic interests, then the latter, non-prejudicial information in the document will not be deemed classified.

Another provision of the Act that ignited controversy relates to the moment at which the relevant information is designated as classified. Namely, the Act prescribes that the classification of information shall occur when that information originated or during periodic reviews of the degree of classification assigned to it. The Act further lists the minimum frequency with which such periodic reviews must occur for different types of information, allowing for such a review to occur more frequently than the minimum prescribed frequency and thus leaving room for information potentially being designated as classified immediately or shortly after it has been requested by the public.

The Act further provides that, if there is public interest in classified information, the person that categorised it as classified is required to perform a balancing test, weighing the right to information against the desire to maintain secrecy. Before making their decision on disclosure, the person must consult the Office of the National Security Council, which is the body entrusted with the enforcement of the Act.

Conclusion

The legal system in Croatia is undergoing profound changes. These reforms will improve legal practice, including allowing for greater online access to legal information and increased transparency in the legal sector. With the advent of these reforms, it is expected that the number of web sites and databases providing legal information in English will gradually increase.

In practice, however, it remains to be seen how the government and regulators will grapple with the application and enforcement of new laws, especially in areas that leave room for interpretation. In addition, steps should be taken to raise awareness among citizens and civil society organisations about ICT policies and new legislation and to search for allies in the business sector.

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