PUBLIC ADMINISTRATION REFORMS IN THE POST CRISIS PERIOD

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The efficiency of public administration (state administration) is one of the country's development and competitiveness indicators. The legal framework significantly affects business environment—it can either encourage entrepreneurship or force businesses to seek other markets, or even cease their activities. The aim of this study is to analyse the current situation in public administration, searching for the best possible legal solutions for the development of public administration. The following objectives are defined to achieve this goal: to evaluate the necessity of public administration reform, to analyse the role of State Chancellery in both control and implementation of reforms, to evaluate necessity of legislation quality assessment service and its possible place in public administration and to make proposals to address the issues found. The descriptive, historical and comparative research methods were used in this research to enable us to obtain research results with the analytical method. The theme is topical from both theoretical and practical aspects because competitive companies can exist only in a country with high quality legislation and advanced system of legislative framework. Authors conclude that it is necessary to strengthen the impact of State Chancellery in the process of control of the legislation and in Government's mandate implementation. One of the possible public administration reform trends is the creation of an independent and scientifically analytical legislation quality assessment service where the main criterion for staff selection should be a good academic background, doctoral degree as minimum, previous experience in work with legal drafts and political neutrality.

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INTRODUCTION

The efficiency of public administration (state administration) is one of the country's development and competitiveness indicators. The legal framework also significantly affects the business environment and it can either encourage entrepreneurship or force businesses to seek other markets at the national and international scale. There is an ever increasing demand in the society for the increase in quality of public administration activities and smaller or bigger reforms are necessary to achieve it. However, the society should also benefit from this continuous reform process and Latvia does not have a lot to boast about in this context. The aims put forward in the current government declaration "to enhance the wellbeing of the family and inhabitants and their belongingness to Latvia. We will achieve this with rapid but sustainable economic development" have just remained declarative slogans¹. As shown by a survey carried out in the Baltic States by the recruitment agency "CV-Online" almost a fourth or 23% of Latvia's economically active inhabitants in 2015 planned to find jobs abroad². That is to leave one's own country and choose another country for living which is more competitive in terms of welfare. The aim of this study is to analyse the current situation in public administration, searching for the best possible legal solutions for the development of public administration. The following objectives are defined to achieve this goal: To evaluate the necessity of public administration reforms, to analyse the role of State Chancellery in both control and implementation of reforms, to evaluate necessity of legislation quality assessment service and its possible place in public administration and to make proposals to address the issues found. The descriptive, historical and comparative research methods were used in this research to enable us to obtain research results with the analytical method. The theme is topical from both theoretical and practical aspects because competitive companies can exist only in a country with high quality legislation and advanced system of legislative framework.

¹ Deklarācija par Laimdotas Straujumas vadītā Ministru kabineta iecerēto darbību (2014. gada novembris). Available at http://www.mk.gov.lv/sites/default/files/editor/05_deklaracija.pdf (last visited Jan. 27, 2016).

² BNS. Teju ceturtdaļa strādājošo šogad plāno pamest Latviju darba dēļ. (2015.gada 27.maijs). Available at http://www.tvnet.lv/zinas/latvija/561652-teju_ceturtdala_stradajoso_sogad_plano_pamest_latviju_darba_del (last visited Jan. 18, 2016).

I. DEVELOPMENT OF PUBLIC REFORMS

Public administration reforms were started already in 1990 and the present reforms for the planning period (2014-2020) are the fourth significant planning period in the development of public administration policies. At the same time, with the start of the state economic crisis, structural reforms were initiated in public administration. Consequently public administration has undergone reforms development—structural reforms since 2001. Taking into account the above mentioned a number of basic elements and measures in public administration development policy have been retained during the present planning period from the previous one at the same time focusing on the main principles of public administration development—efficiency, the rule of law, applicability, accessibility, flexibility and cooperation. The State Administration Structure Law that came into force as of January 1st, 2003 was aimed at ensuring a democratic, lawful, effective, open and publicly accessible State administration³.

One of the main priorities of public administration the next planning period was the accession of Latvia to the Organisation for Economic Co-operation and Development (hereinafter-OECD), which would promote the development of quality of public administration and the provision of better public services to our inhabitants by transferring the experience of other economically developed countries in this process. On April 18th, 2016 Latvia received the latest OECD committee report on Latvia's preparedness to join the organisation.

The President Raimonds Vējonis stated that the OECD expert assessments and recommendations have been a motivation for the introduction of administrative reforms in public companies and have enabled strengthen the ability of Latvia to fight against corruption in international transactions. "OECD membership is an opportunity to use the experience and knowledge of developed countries to reorganise the sectors that are important for the further development of our country," underlined the President⁴.

As pointed out by the Minister of Foreign Affairs Edgars Rinkēvičs: "The process of joining the organisation has proved that the main aim of OECD membership was not just participation in just another international organisation but an instrument for the state to enhance its policies in almost every economic and social sector. We have received valuable

³ Valsts pārvaldes iekārtas likums. Pieņemts 06.06.2002. Publicēts: Latvijas Vēstnesis, 21.06.2002, Nr.94. Pēdējie grozījumi 22.10.2015.

⁴ Par likumu un valsti. Valsts prezidents: pievienošanās OECD ir svarīga Latvijas ilgtspējīgai attīstībai. (23.03.2016). Available at <http://m.lvportals.lv/visi/preses-relizes?id=277811> (last visited May 16, 2016).

recommendations which in certain cases have served as strong motivations for internal reforms.” OECD carries out evidence based analysis and studies in every sector significant for the national economy (economic policies, social, educational, health policies etc.). This provides the state the opportunity to implement policies that are based on the experience, mistakes and conclusions of the world’s economically developed countries.

The significant benefits that Latvia gains from joining the block of 34 world’s developed countries are as follows:

- OECD membership improves Latvia’s international credit ratings which in turn influences interest rates at which the government and enterprises can attract finances. Therefore the country’s debt service costs would decrease.

- Increase in foreign direct investment. OECD membership means compliance to certain high standards in business, proper functioning business environment and investment protection. Upon joining the OECD, Latvia will be included in OECD national economic policy reports and research, statistics and other databases. These studies have gained the confidence of foreign investors, international finance institutions and businessmen.

- Strengthen the fight against corruption, enhancing the legal framework and its implementation in practice.

- Promotion of direct economic links with OECD member states. Latvia will become economically recognised in countries with whom Latvia has not yet been able to realise its full potential in economic and trade cooperation.

- Opportunity to evaluate and enhance the Latvian education system in accordance with best practices of other OECD member states including the development of skills necessary for the labour market.

- In accordance with the OECD motto “Better Policies for Better Lives!” the improvement of Latvian public administration quality must be mentioned as a significant benefit. Latvian membership in OECD means access to broad and diverse expertise that would help policy makers to choose the appropriate solutions to transform Latvia into a country whose citizens have better living conditions. Latvia would have the opportunity to learn from the positive experiences of OECD member states as well from their mistakes identifying the best actions and tools for achievement of its economic policy aims⁵.

⁵ Latvijas Republikas Ārlietu ministrija. Latvijas pievienošanās Ekonomiskās sadarbības un attīstības organizācijai. (2016. gada 3. maijs). Available at <http://www.mfa.gov.lv/arpolitika/ekonomiskas-attiecibas/starptautiskas-ekonomiskas-organizacijas/ekonomiskas-sadarbibas-un-attistibas-organizacija-esao/latvijas-pievienosanas-esao> (last visited May 16, 2016).

OECD is actively involved in the creation of various projects, supporting several countries in their development and it is expected that Latvia will also share its knowledge with others as stated by Douglas Frantz, the Deputy Secretary General of OECD. Speaking about OECD projects, the organisation representatives mentioned project “Sigma” as an example. During its implementation former state official representatives from major European countries visited the Ukrainian capital Kiev to teach Ukrainian state officials. “These people have enormous experience and in such a manner we could provide our support to Ukraine”, stated an official indicating that Latvia could also offer its support to other countries in the implementation of similar projects⁶.

Apart from a string of new initiatives introduced during the planning period, reforms were made to the institutional procedures of public administration as well as in human resources policy and the Cabinet of Minister’s decision No. 827 “On public administration policy development guidelines for 2014-2020” (hereinafter—Guidelines) includes a number of public administration and its efficiency related issues. Thus the guidelines were drafted based on the analysis of reforms introduced and the existing problems. The institution responsible for public administration policy changed during the planning period. An interdepartmental coordination centre (hereinafter—PKC)—leading (higher) direct public administrative institution for state development planning and coordination under the direct subordination of the Prime Minister was established on December 1st, 2011. PKC carried out interdepartmental supervision of sectoral policies, drafted medium term and long term planning documents and supervised their implementation as well as coordinated the declarations of the Cabinet of Ministers (hereinafter—MK) on planned activities and the performance of Government’s action plans. The higher direct public administration institutions as well as the subordinate institutions and local governments are responsible for the implementation of the Guidelines. The State Chancellery carries out overall supervision of the Guidelines and State Chancellery is on the whole responsible for the implementation of the Guidelines⁷. In turn the PKC is the leading (higher) direct public administrative institution for state development planning and coordination under the direct subordination of the Prime Minister which aims to ensure the mutual alignment and

⁶ TVNET, OECD pārstāvis: Pēc pievienošanās Latvija varēs palīdzēt citu valstu attīstībai. (2016.gada 13.maijā). <http://financenet.tvnet.lv/viedokli/608305-oecd-parstavis-pec-pievienosanas-latvija-vares-palidzet-citu-valstu-attistibai> (last visited May 16, 2016).

⁷ Ministru kabineta rīkojums Nr.827 Par Valsts pārvaldes politikas attīstības pamatnostādņēm 2014.-2020.gadam. Pieņemts 30.12.2014. Publicēts: Latvijas Vēstnesis, 07.01.2015, Nr.3.

compliance of development planning documents at the national level with the normative enactment requirements. The task of PKC is to ensure coordinated development planning in the country, work out long term planning documents, ensure the attraction of state and European Union (hereinafter—EU) financing and to make sure that the priority is maintained in all decision making processes in the country⁸.

The Guidelines do not just address future plans but also existing problems. Unfortunately there is a lack of a common and effective solution and instrument to successfully implement the public administration reforms as well as necessity to continue the work on enhancement of public administration institutional system and the quality of services. Work on the reduction of administrative burden of inhabitants and businesses and the enhancement of work organisation of public administration institutions should also be carried on. With the decrease in the number of inhabitants the initiative of development of professional public administration should be continued at the same time providing effective solutions for increasing the competences and strengthening the capacity of public administration employees as well as improving the remuneration system. The key issues of the development planning system lies in the implementation of the planning system in practice while working out, implementing and assessing policy planning documents as well as carrying out cross sectoral policy planning. Problems with improvement of cooperation between the public and private sector and ensuring exchange of experience in public administration are other issues to be resolved⁹.

Although the competitiveness of a state is to a great extent dependent on the success of its enterprises, success in turn depends on national scale measures—effective legislative framework and a well organised, qualitative system of legal enactments. New normative enactments or amendments to existing ones are continuously adopted in our country in a hope to find successful solutions but it should be taken into account that such actions demand huge financial and human resources. The adoption of the informative report on “Proposals for reduction of amount and scope of amendments to normative enactments” by the MK mentioned in the guidelines for the reduction of administrative burden is positive step in the restriction of these innovations. Thereby proposals were worked out for the reduction of amount and scope of excessive innovations and preconditions

⁸ Pārresoru koordinācijas centrs. Par PKC. Pārresoru koordinācijas centra mājas lapa. (2016). <http://www.pkc.gov.lv/par-pkc/par-pkc> (last visited Jan. 28, 2016).

⁹ Ministru kabineta rīkojums Nr.827 Par Valsts pārvaldes politikas attīstības pamatnostādņēm 2014-2020.gadam. Pieņemts 30.12.2014. Publicēts: Latvijas Vēstnesis, 07.01.2015, Nr.3.

were laid for the prevention of excessively detailed and pedantic regulations. The deputy state secretary of the Ministry of Justice for legal policy issues Laila Medina in her informative report on “Proposals for reduction of amount and scope of amendments to normative enactments” summarised data on the ratio of normative enactments and amendments, statistical data as well as the minimum expenses for the preparation of such normative enactment draft projects. For instance the MK regulations were amended 1,103 times in 2013 which is the highest number of such amendments since 1995 and the minimum cost for the preparation of one such normative enactment draft was 3,335.62 EUR¹⁰.

Dr.iur. Jānis Pleps expresses an interesting opinion regarding amendments to normative enactments concluding that not everything can be resolved by such amendments. However if we look at the possibilities of influencing constitutional law with normative regulations one should take into account the fact that there is a lot of political influence and that there are at least four regulatory mechanisms: normative regulations; traditions; political will of the parties to play by these rules or to change them; human personality and interpersonal relations. These aspects are inseparable. The normative regulations could be successful but do not work out in real life¹¹. The authors agree with J. Plep’s opinion but still deem that successful state power formation model has a decisive impact on the normative regulations. Each state power formation model is different and they are changed according to the development of each state. However there is no unified opinion on which model should be designed for Latvia despite the fact that it is clear that the existing model is again inefficient. In business language we need a new “business plan”. The institution responsible for drafting such a “business plan” is the PKC.

The key medium term development planning document in Latvia is the “National Development Plan of Latvia for 2014-2020” (hereinafter—NAP2020). It is the Sustainable Development strategy of Latvia till 2030 (hereinafter—Latvia2030), an action plan that serves as a state development road map for the medium term. NAP2020 is on the one hand the state’s “business plan” that reflects the state growth model—areas of investment to ensure economic self-sufficiency, increase in productivity and competitiveness—How will synergy be achieved between investment

¹⁰ L. Medina, Informatīvais Ziņojums “Priekšlikumi ĀRĒJo Normatīvo Aktu Grozījumu Skaita Un Apjoma Samazināšanai”. (2014.gada 26.augusts). Available at <http://www.slideshare.net/Tieslietas/t-mprezentacija-260814vp7> (last visited Jan. 26, 2016).

¹¹ J. Pleps, “Racionāls parlaments”. Biznesa augstskola Turība. Diskusija “Stiprāka un atbildīgāka izpildvara”. (2013.gada 22.maijs). <http://www.veritweet.com/event/5526/Stipraka.izpildvara>. Diskusija.Turiba.22.05.2013 (last visited May 25, 2016).

goals and balanced development? How will the state prosper and its inhabitants as well? The NAP2020 can also be considered a “social agreement” that describes what the state undertakes to achieve till 2020 and what it expects from the society. The state reveals a common vision for medium term development to ensure long term predictability in decision making at the sectoral, enterprise and individual level.¹² NAP2020 is hierarchically the highest medium term planning document and it is closely related to Latvia2030 and the “National Reform Programme for the Implementation of the EU2020 Strategy”. The introduction of NAP2020 states that “In 2020, Latvia will be a country that is Latvian in character and self-confident, secure and resident-friendly, green and well-tended, prosperous, effective and competitive, and a home to industrious, well-educated, creative, healthy and happy people. In any area of activity, ensuring the rule of law and the effective application of legislation is the paramount principle.” NAP2020 lays out several strategic objectives, e.g. strategic objective “Outstanding Business Environment” which by the way points out that an outstanding business environment means a coherent regulatory framework, the operation of a stable state support and monitoring system, public services oriented towards the needs of businesses, clear and competitive environment for the start-up and development of business activity.

The Latvian Chamber of Commerce and Industry (hereinafter—LCCI) plays a significant role in the development of competitiveness of our nation. LCCI is a voluntary, politically independent association which unites micro, small, medium and large enterprises from all economic sectors and regions of Latvia. In terms of membership the LCCI is the largest non-governmental organisation of entrepreneurs that unites 1,367 enterprises, 47 industry associations, 9 city business and 11 other business unions. The total turnover of LCCI member companies was more than 13.5 billion euros in 2013! LCCI represents the interests of entrepreneurs in state and regional institutions, as well as offers services so as to ensure Latvia has excellent companies in an excellent business environment. LCCI works in three areas: business environment; competitiveness of the companies; and export¹³. The president of LCCI Aigars Rostovskis pointed out in this context that it is necessary to carry out overall public administration reform at the national

¹² Pārresoru koordinācijas centrs. Par NAP2020. Pārresoru koordinācijas centra mājas lapa. (2016). <http://www.pkc.gov.lv/nap2020/par-nap2020>. http://www.pkc.gov.lv/images/NAP2020%20dokumenti/20121220_NAP2020_apstiprinats_Saeima.pdf (last visited Jan. 18, 2016).

¹³ Latvijas Tirdzniecības un rūpniecības kamera. LTRK pamatnostādnes efektīvas publiskās pārvaldes politikā. (2016). Available at http://www.chamber.lv/public/uploads/editor/Daniels/politika/10_LTRK_pn_publiska-parvalde.pdf (last visited Jan. 26, 2016).

level to ensure that public administration reforms and reorganisation of certain institutions would be effective and would provide a positive contribution in the long term and the LCCI guidelines serve as the basis for such reforms¹⁴. For instance, the overall objective mentioned in the LCCI guidelines “LCCI guidelines for effective public administration policies”: efficient and transparent public administration that ensures a favourable business environment, a reasonable direct tax and tax burden, competitive resources for development of Latvian economy and protects its interests¹⁵.

The MK decree No. 48 “On human resources development concept for public administration” was adopted on February 6th, 2013. The institution responsible for coordinating the implementation of the conception is the State Chancellery. It is pointed out in the introduction of the human resources development concept for state administration that essential changes aimed at ensuring an efficient public administration have taken place in recent years. Alongside optimisation of public administration functions and enhancement of the institutional system, measures concerning those employed in public administration were also carried out number of staff employed in public administration and salaries were cut, almost all social guarantees were abolished, further training expenses were restricted and therefore all career prospects in public administration were cut as well. In order to achieve the aims put forward in the conception it is necessary to strengthen human resource management functions in public administration and enhance the institutional administration models¹⁶.

The opinions of the constitutional court in this regard should be taken into consideration. For instance the concept of democratic republic¹⁷ in Section 1 of the Constitution stipulates the obligation for all state institutions to adhere to the rule of law, separation of power especially while making laws and carry out mutual supervision observing the compliance of state power to the law, i.e. the predominance of law and other principles of states following the rule of law as well as principles of proportionality and legal certainty. The principles of democratic and rule of the law states are based on the fact that there is a balance between the basic values and

¹⁴ Rostovskis. Rostovskis: Visa valsts pārvalde prasa reformas. (2015.gada 11.augusts). <http://www.diena.lv/latvija/viedokli/rostovskis-visa-valsts-parvalde-prasa-reformas-14107790> (last visited Jan. 22, 2016).

¹⁵ Latvijas Tirdzniecības un rūpniecības kamera. LTRK pamatnostādnes efektīvas publiskās pārvaldes politikā. (2016). Available at http://www.chamber.lv/public/uploads/editor/Daniels/politika/10_LTRK_pn_publiska-parvalde.pdf (last visited Jan. 26, 2016).

¹⁶ Ministru kabineta rīkojums Nr.48 Par Valsts pārvaldes cilvēkresursu attīstības koncepciju. Pieņemts 06.02.2013. Publicēts Latvijas Vēstnesis, 08.02.2013, Nr.28.

¹⁷ Latvijas Republikas Satversme. Pieņemta 15.02.1922. Publicēta: Latvijas Vēstnesis, 01.07.1993, Nr. 43. Pēdējie grozījumi 19.06.2014.

exercise of rights in a society. Government decisions should generate trust that they have been adopted following the principles of justice and therefore reduce the possibility of conflict of interests¹⁸. Legal stability is an essential component of principles of rule of the law states¹⁹. The constitutional court has concluded that with the change in legal regulations state institutions have to be consistent in their operations with regards to normative enactments adopted and observe principles of legal certainty. The principle of legal certainty among others requires that the trust the person has regarding the maintenance or exercise of rights be protected and requires that the state fulfil its obligations that it has undertaken towards the person. Otherwise the confidence of the person in the state and laws will be shaken. However in order to ensure the ability of the state to react to changing living conditions the principle does not deny the state the possibility of amending existing regulatory enactments. The principle of legal certainty requires that the state while amending normative enactments maintains a reasonable balance between trust of persons in certainty and the interests of the society which is the reason for amending the particular normative enactments²⁰. The legal certainty principle is also significant in terms of whether the person's reliance on the regulation is legal, justified and reasonable and whether the regulation in fact is sufficiently definite enough and unchanging so that it can be relied upon²¹. The legal certainty principle also means that rights once acquired by an individual cannot exist for an unlimited long time. In other words this principle does not give the grounds to believe that a once determined legal situation can never change. It is essential that the legal certainty principle provide an individual protection of his rights only during the transition period set out by the legislative. The legal certainty does not guarantee an individual permanent *status quo*. It should be concluded the legal certainty principle protects an individual's once gained rights, i.e. the person can rely on the fact that rights gained in compliance with existing legal regulations during a definite period will be preserved and implemented in practice²². The legislator in compliance with the basic principles of a rule of the law state enshrined in the Section 1 of the constitution has the

¹⁸ Latvijas Republikas Satversmes tiesas 24.03.2000. spriedums lietā Nr.04-07(99). Publicēts: Latvijas Vēstnesis, 24.03.2000, Nr.113/114.

¹⁹ Latvijas Republikas Satversmes tiesas 05.03.2002. spriedums lietā Nr. 2001-10-01. Publicēts: Latvijas Vēstnesis, 06.03.2002, Nr.36.

²⁰ Latvijas Republikas Satversmes tiesas 19.03.2014. spriedums lietā Nr. 2013-13-01. Publicēts: Latvijas Vēstnesis, 21.03.2014, Nr.58.

²¹ Latvijas Republikas Satversmes tiesas 19.03.2002. spriedums lietā Nr. 2001-12-01. Publicēts: Latvijas Vēstnesis, 20.03.2002, Nr.44.

²² Latvijas Republikas Satversmes tiesas 25.10.2004. spriedums lietā Nr.2004-03-01. Publicēts: Latvijas Vēstnesis, 26.10.2004, Nr.169.

obligation to periodically review whether the legal regulation is still effective and whether it should not be amended in any manner²³.

As the Guidelines foresee the State Chancellery as the institution responsible for the implementation of the Guidelines, the State Chancellery have the direct deciding role of analysing whether the legal regulation is still effective and whether it should not be amended in any manner.

State Chancellery is the direct administrative institution whose aims are to create the necessary preconditions for the proper functioning of the Prime Minister, Deputy Prime Minister and the MK to ensure the decision making is in accordance with the LR constitution and other laws and ensure the implementation and continuity of MK decisions as well. The State Chancellery carries out functions laid out in the State Administrative Structure Law and among others in accordance with procedures foreseen in the normative enactments coordinates and controls the performance of tasks entrusted by the law and the Saeima's decisions and the MK, tasks entrusted by the Prime Minister, and the Deputy Prime Minister as well as by the Meeting of State Secretaries²⁴.

After listening to the Director of the State Chancellery, Mārtiņš Krieviņš, who was the former senior OECD advisor on strategy, reform and policy development issues and the former head of PKC regarding reforms in the institution, the former (till February 11th, 2016) Prime Minister Laimdota Straujuma stressed that his work was a model for other public administration institutions. "What Mr. Krieviņš is doing is a model for other public administration institutions. The State Chancellery has to be a model," said the head of the government. In her opinion the State Chancellery's present management is progressive and supportive. She also praised the performance of Krieviņš after a three month long personal audit and assessment of State Chancellery operations impartially inspecting what was superfluous. It was already reported that after the internal audit Krieviņš offered to carry out reforms in the State Chancellery cutting down the employees by 7% and taking over three of the PKC functions, which would be liquated in the long term. Changes are also expected in the functioning of several departments²⁵.

Speaking about the PKC, which the head of the State Chancellery

²³ Latvijas Republikas Satversmes tiesas 12.02.2014.spriedums lietā Nr. 2013-05-01. Publicēts: Latvijas Vēstnesis, 14.02.2014, Nr.33.

²⁴ Ministru kabineta noteikumi Nr.263. Valsts kancelejas nolikums. Pieņemti 20.05.2003. Publicēti: Latvijas Vēstnesis, 23.05.2003, Nr.77.

²⁵ LETA. Straujuma atbalsta Krieviņa lēmumus attiecībā uz reformām Valsts kancelejā. (05.01.2016). <http://valmiera.pilseta24.lv/zina?slug=straujuma-atbalsta-krievina-lemumus-attieciba-uz-reformam-valsts-kanceleja-5ae4a298ee/1538662> (last visited Jan. 27, 2016).

proposed to liquidate, the former candidate and since February 11th, 2016 the current Prime Minister Māris Kučinskis (ZZS) has requested the State Chancellery's director Mārtiņš Krieviņš to stall the proposal to liquidate the PKC. He pointed out that the State Chancellery and the PKC are under his direct subordination and would be necessary for fulfilling the tasks of the government coordinating the functions of the ministries and the other public administration institutions. Kučinskis underlined that it was not necessary at present to abolish the PKC and set up something anew²⁶.

With regards to the reforms M. Krieviņš, in an interview to the newspaper *Latvijas Avīze* pointed out that

colleagues from the OECD usually joke that public administration is the path that never ends. If we review the foreign experience it should be acknowledged—public administration reforms are cyclic. Issues arise from time to time that need to be more effective but then later things cool down as it seems that something has been achieved. Things cooled down in the Latvian public administration during the post crisis period. Now public administration has to understand that it is time again to improve. It has to understand that a revolution is not necessary but one has to take the path of evolution and assess what can be done better. We have to understand what we really want and try to find the golden middle.

As further underlined in the interview by M. Krieviņš an abnormally huge number of urgent issues are put forward by the ministries to the MK which means that the issues were not properly discussed and analysed. One cabinet meeting urgently amends and adopts regulations and the same MK regulations are again amended after a week or two. Public administration is justifiably criticised by social partners for it. Here we again come upon the issues of salaries of those employed in public administration, their reputation and high staff turnover. As long as this remains unresolved the vicious cycle will continue—the administration will lack institutional memory, preservation of experience that could be handed over to other colleagues as well as fail to attract professionals²⁷.

II. LEGISLATION QUALITY ASSESSMENT SERVICE AND ITS ROLE IN PUBLIC ADMINISTRATION

Discussions have been going on in Latvia for several years already on

²⁶ BNS. Aicina piebremzēt ar Pārresoru koordinācijas centra likvidēšanu.(2016.gada 22.janvāris). http://www.tvnet.lv/zinas/viedokli/592966-aicina_piebremzet_ar_parresoru_koordinacijas_centra_likvidesanu (last visited Jan. 22, 2016).

²⁷ M. Libeka, *Mazāk kafijas dzērāju, vairāk kvalitatīvu pakalpojumu*, *Latvijas Avīze*, Nr.18(5453), 6—7 (2016).

the necessity for a research or analytical service at the Saeima. Its purpose would be to provide support for legislators in the decision making process, forecasting the possible consequences of the draft laws submitted for the review of the Saeima as well as analysing the functioning of legislation in force. To a certain extent and authority several institutions at present carry out analogical tasks, including ministries—on draft laws prepared by them (annotations), meeting of state secretaries and MK, PKC, National Tripartite Cooperation Council, Fiscal Disciplinary Council, Saeima's Judicial bureau (judicial analysis of draft laws) etc. In turn other institutions that were once established for similar purposes have been liquidated (e.g., Constitutional law committee of the President, which to a certain extent has been replaced by the President's committee for enhancement of the legal environment). However Members of the Latvian parliament do not have their own independent advisors who could neutrally and comprehensively evaluate legislation proposed by the government and lobbies of various social groups. An international conference "*Ex post* analysis of impact of parliamentary decisions" was held in 2013 in the Saeima which discussed the necessity for improving the quality of legislation in Latvia and concluded that a good compulsory precondition for legislation is the careful analysis of the impact of the legislative process and its consequences. The necessity of Saeima's analytical service is at present also topical due to the report published by the parliamentary investigative committee responsible for the Zolitude tragedy that links the collapse of the "Maxima" supermarket to ill-considered legislative process (liquidation of the Construction supervision bureau). The report includes proposals to set up a Saeima analytical service. Opinions on the necessity of the analytical service at the Saeima have been summarised in the magazine "Jurista Vārds" issue of October 20th, 2015: Dr.iur. h.c. Egils Levits' letter to the Zolitude tragedy Committee reviews the experience of foreign parliamentarians and Saeima members Dr.iur. Inese Lībiņa-Egnere and Dr.iur. Ringolds Balodis and consultant of the sworn notary bureau "Borenus" Edgars Pastars answer questions put forward in "Jurista Vārds"²⁸.

Dr.iur.h.c. Egils Levit's opinion on the final report of the committee refers to only one specific point 6.7. of the final report: **"6.7. The committee considers that finally an institution should be set up within the Saeima Chancellery whose duty would be summarise information and carry out analysis necessary for improving the quality of legislators' work. The analysis would include a prelegislation (*ex ante*)"**

²⁸ Jurista Vārds, Vai Saeimai nepieciešams likumdošanas analīzes dienests, Nr. 41 (893), 12 (2015).

and postlegislation (*ex post*) assessment system (highlighted by J.N. and U.S.). That would improve the quality of work of legislators and increase the responsibility of the legislators regarding the efficiency of the legislation adopted.” The committee’s proposal to set up a special institution within the Saeima Chancellery whose duty would be to summarise information and carry out analysis necessary for improving the quality of legislators’ work should be considered from a broader i.e. “good legislation” or legisprudence perspective. “Good legislation” (*or better regulation*) or legisprudence is a relatively new sub branch of state law science, that studies the quality of legislation and offers recommendations for their improvement. Basically it is law science but methodologically combines political science, sociological science, socio-psychological science and economic science. On the one hand such a service would strengthen the Saeima’s separation of power system making it independent from the opinions of government experts. Therefore it would further the Saeima’s ability to implement its government supervisory function. On the other hand the Saeima would be less susceptible to influence—as various (legitimate and illegitimate) lobbies would find it difficult to influence the decisions if the Saeima had an adept and independent research service at their disposal. E. Levit’s conclusion: As can be concluded from the final report one of the remote reasons for the “Maxima” tragedy is the inadequate quality of legislation (i.e. wrong changes in the legislation). The tragedy in fact is a result of implementation of the risk that was created by ill-considered legislative changes. It is possible that supervision of quality of legislation carried out by Saeima’s research service would have prevented such mistakes if such a service had existed. In any case the authors consider that it is time the Saeima also sets up its own research or analytical service like such existing in almost all other EU member state parliaments. The initiative of establishment of such a service could be the lasting contribution of the parliamentary investigative committee towards qualitative further development of Latvian legislation²⁹.

Let’s now look at the opinion of Dr.iur. Inese Lībiņas-Egnere, deputy chairperson of the 12th Saeima in the article “Evaluating how effective the law is after adoption in practice is no less important than pre legislative analysis”. Does Latvia require a service that would evaluate the impact of legislative initiative and its efficiency before and after its adoption? Her response is more focused on the necessity of a post legislation (*ex post*) evaluation system and reflects the discussions going on in the LR Saeima on this issue. At present legislators pay a lot more attention to the pre

²⁹ E. Levits, *Laba likumdošana un parlamenta zinātniskais dienests*, Nr. 41 (893), 11—12 (2015).

legislation evaluation of the impact of legislation which is regulated separately by the instructions of the MK No. 9 as of December 15th, 2009 on “Procedure for evaluation of initial (*ex ante*) impact of draft legislation.” The aim of prelegislation (*ex ante*) evaluation of the impact aims to ascertain the consequences and impact, evaluates the aims and necessity of the draft legislation, effectiveness in achievement of aims, impact on the macroeconomic environment, impact on the business environment, impact on administrative procedures and costs, social influence, environmental impact, fiscal impact on the government and local government budgets, impact on the existing legislation in force and international LR obligations and other circumstances. The Saeima’s rules of procedure stipulate that MK initiated draft legislation should have an annotation attached. If the draft legislation is proposed by the President, Saeima committees or not less than five members of Saeima, the relevant committee of the presidium shall within the procedures foreseen attach an annotation comprising the answers of the initiators on the following questions: Why is the legislation required, what would be its impact on the society and economic development, what would be the impact on the existing legislative system, which international obligations does the draft legislation comply with, what consultations were carried out while working out the draft legislation that ensure the implementation of the law. Therefore we know the prelegislation analysis of the draft. However it is no less important to evaluate the legislation after adoption to identify how efficiently it works in practice and whether the conclusions of the initial pre legislation evaluation have come true. Elected representatives of the people while exercising their authority should have the opportunity to receive unbiased, prompt and factually based information that would promote effective decision making. Agreeing to the fact that the Saeima’s legal bureau evaluates the compliance of draft legislation to the LR constitution, Latvia’s international treaty obligations, laws and the Latvian legal system, it should once again be emphasized that it is only one of the aspects that should be evaluated before the adoption of the legislation as well as after a period of time evaluating the effectiveness of legislation existing in force. The legal bureau cannot provide an evaluation of the legislation’s impact on the economy. In my everyday duties as a parliamentarian I have come across the fact that the parliament lacks these research resources which would enable it to make sound and effective decisions³⁰.

Edgars Pastars, consultant of the sworn notary bureau “Borenus” has

³⁰ I. Lībiņa-Egnere, Vērtēt, cik efektīvi likums pēc pieņemšanas darbojas praksē, ir ne mazāk būtiski par pirmslikumdošanas analīzi. Nr. 41 (893), 16—18 (2015).

expressed an interesting opinion regarding the Saeima quality service in his article “Legislation process cannot be a string of coincidences, success and mistakes woven together only according to intuition”. Does Latvia need a service that analyses the impact and effectiveness of legislative initiatives before and after its adoption? He is convinced that the Saeima has to have its own research capacity to be able to give another opinion and perspective that differs from those of the stakeholders. The *ex post* analysis of legislation initiatives is necessary to identify mistakes, losses, illogical situations in advance or identify legislators’ misguided promises that they would not be so keen to acknowledge and would only rectify when they feel safe (i.e.: all has been forgotten). Research of impact of legislation initiatives are not necessarily voluminous and costly. They could be done by several methods taking into account the time allotted and topics. It is enough to identify important topics, data analysis or other methods, ascertain the actual situation and inform the Saeima members about them. Speaking about *ex post* evaluation, the Saeima as the adopter of the legislation will find out in good time how the legislation is functioning. In comparison it may be said that parents may be interested in their children even after they have become adults. Politicians have the right to ignore the opinion of experts in decision making as the people elect politicians and not experts. However politician have to create a system that would enable them to learn enough to assess who to listen to and who to ignore³¹.

One can also contemplate on Dr.iur. Ringolds Balodis’ article “Saeima cannot be a formal procedural democratic stage that affirms the works of civil servants”. The University of Latvia professor and member of the 12th Saeima. R. Balodis writes that such a service is necessary and examples can be found in plenty. Definitely the quality of legislation needs to be improved. It is not just the enhancement of judicial techniques but also the analytical aspect to ensure that the Saeima is not just a formal procedural democratic stage whose obligation is to approve the work of civil servants. The main function of the higher chamber in countries that have a bicameral parliament is to prevent mistakes that have been allowed by the lower house in the draft legislation. We have a unicameral parliament and a president with very little authority and therefore the parliament’s only chamber has to serve not only as the adopter of legislation but also an analyst of the legislation and its functioning. It is understandable that no single person can be an expert in all fields and members of the parliament are no exception with each being an expert in his own field. Unfortunately members of the parliament have to

³¹ E. Pastars, Likumdošanas process nedrīkst būt nejaušību, veiksmju un kļūdu kamols, kas veļas tikai atbilstoši intuīcijai, Nr. 41 (893), 20 (20.10.2015).

rely on the analysis provided by the MK in their everyday duties as there is no other available. Therefore the parliament which from the theoretical point of view should control the government itself is “fully under the leash of the government”. The Saeima absolutely without any critical analysis fully accepts anything the government put forward. Around 95% of legislation initiatives originate directly from the government! It is not something bad or good but the parliament should be able to “filter” the mistakes of the government. Such a legislation analysis service together with the Saeima’s legal bureau and the Saeima presidium would form the brains of the parliament. The right approach would be the establishment of a legislation analysis service and important decisions of the Saeima should be based on the recommendations of such a service. Let us say today due to the bad communication of the government, the society is afraid and ignorant about the refugees who would arrive in Latvia soon. Such a service could be requested to provide opinions on the refugee integration experience of other countries as at present the Saeima can only rely on the assessments of the Ministry of Interior on this issue which automatically is also the opinion of the Prime Minister as the Prime Minister and the Interior Minister belong to one and the same political party. There exists a risk that the wish “to appear good” in the eyes of Europe could dominate Latvian interests and in this matter the opinions of the Saeima’s analytical service could disperse of any doubts on the issue³².

The opinions of those surveyed by the journal “Jurista vārdi” on who should work in such a bureau differ. However the basic requirements are common—good academic education, at least a doctor’s degree, experience and political neutrality. Regarding the question of under which institution (subordination) such a bureau should function there is no single common opinion, e.g. E. Levits concludes that it is high time that the Saeima establish its research or analytical service, R. Balodis considers that it should be the Saeima’s presidium, I. Lībiņa-Egnere thinks that it should be a separate structural unit of the Saeima and E. Pastars, in turn is of the opinion that there will not be one such bureau at the national level and the main analytical resources should be concentrated for instance in the State Chancellery.

The author of the book “Administratīvās tiesības” professor Dr.iur. J. Načisčionis has written that if there is a sufficient amount of legislative enactments i.e. administrative legal enactments that are in force, then there is not enough works in the field of theoretical research of administrative law.

³² R. Balodis, Saeima nedrīkst būt formāls procedurālās demokrātijas posms, kas apstiprina ierēdņu produkciju, Nr. 41 (893), 18—19 (20.10.2015).

This would be the field of work for lawyers, both theoreticians and practitioners as well. It is desirable that such work be coordinated especially now when the alignment of legal enactments of our country with that of the EU is still topical (alignment did not stop with accession into the EU). It could be done by a scientific research structure where the necessary resources could be concentrated. It would provide the opportunity to methodologically properly research the set of social relations that are the main object of administrative law regulations. It would also provide the opportunity to correctly forecast the main directions of administrative law regulations in public administration. It would not be any less important for the development of theoretical ideas. By this we understand that the very necessary work of carrying out scientific research of administrative law as an independent branch of law on selected objects of administrative law and subjectivity of their rights including individuals—a status separate from the legal entity—a private law legal person, analysing subjectivity of their rights, especially focusing on the competences of objects of administrative law, which are public administration institutions.

Such studies could be science, could become the theoretical base for the administrative law system within the framework of which one could develop the science of public administration and theoretical aspects of its enhancement. It is generally acknowledged opinion that the administrative law system comprises the theoretical base mentioned here, the administrative law source system and information regarding the implementation of the legal sources³³.

In the authors' opinion the abovementioned could be related to each and every legal branch. In real life the existing information on the implementation of legal enactments (partial implementation, non-implementation) could provide data on the circumstances that evolved as a result of execution of the legal enactment. The data gathered should be carefully analysed and theoretical conclusion can be drawn on the situation in one or the other economic sector or on some "topical" issue. These theoretical conclusions could form the basis for drafting policy guidelines on the basis of which a conception can be worked out. The conception if accepted could form the basis for working out a draft legislation (draft laws, draft regulations, binding draft rules). If the draft legislation is adopted according to due procedure and becomes a law or legal regulation, the process of its implementation can be started. Data regarding the implementation of the new legislation (maybe an amended legislation) is

³³ J. Načisčionis, *Administratīvās tiesības*. Rīga: Biznesa augstskola Turība, 470 (2009).

again the object of a new research. The quality of the legislation depends on the autonomous legislation quality assessment service (Public law object set up by the Saeima).

CONCLUSIONS

1. It is necessary to strengthen the State Chancellery's influence in the control of the functioning of the legislation and performance of tasks set by the government.

2. Public administration reforms are a continuous task with executive bodies constantly improving themselves independent of government declarations and EU legislation.

3. One of the directions of public administration reforms is the establishment of an independent legislation quality assessment service the main recruitment criteria for which would be good academic education, at least a doctor's degree and political neutrality.