

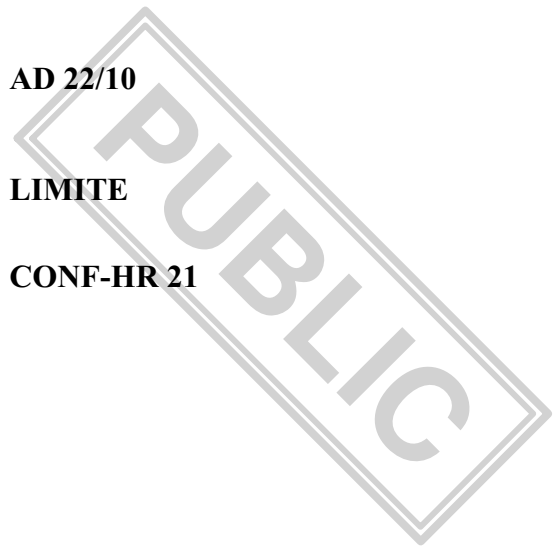
**CONFERENCE ON ACCESSION  
TO THE EUROPEAN UNION  
– CROATIA –**

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**CONF-HR 21**



**ACCESSION DOCUMENT**

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Subject: EUROPEAN UNION COMMON POSITION  
Chapter 23: Judiciary and fundamental Rights

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## **EUROPEAN UNION COMMON POSITION**

### **Chapter 23: Judiciary and Fundamental Rights**

This position of the European Union is based on its general position for the Accession Conference with Croatia (CONF-HR 2/05), and is subject to the negotiating principles endorsed by the Accession Conference (CONF-HR 5/05), in particular:

- any view expressed by either party on a chapter of the negotiations will in no way prejudice the position which may be taken on other chapters;
- agreements - even partial agreements - reached during the course of the negotiations on chapters to be examined successively may not be considered as final until an overall agreement has been established;

as well as to the requirements set out in points 13, 16 and 26 of the Negotiating Framework.

The EU underlines the importance for Croatia of compliance with the Stabilisation and Association Agreement as well as the Accession Partnership, which constitute basic elements of the pre-accession strategy.

The EU recalls that full cooperation with the International Criminal Tribunal for the former Yugoslavia (ICTY) remains essential, in line with the negotiating framework. Moreover, the EU recalls its conclusions of 3 October 2005 that less than full co-operation with the ICTY at any stage would affect the overall progress of the negotiations.

The EU encourages Croatia to continue the process of alignment with the *acquis* and its effective implementation and enforcement, and in general to develop already before accession, policies and instruments as close as possible to those of the EU.

The EU notes that Croatia, in its position CONF-HR 6/10 accepts the *acquis* under chapter 23 as in force on 1 January 2010, and that Croatia declares that it will be ready to implement it by the date of its accession to the European Union.

The EU notes the various measures taken and plans to be fulfilled set out in Croatia's position CONF-HR 6/10 pertaining to all aspects of chapter 23: Judiciary and fundamental rights. The EU notes that further efforts are needed to complete the legislative framework in a number of areas. Moreover, the EU underlines the importance of Croatia establishing a track record of implementation across the board, thereby demonstrating that the reforms being introduced deliver concrete results.

#### **(i) Judiciary**

##### **Independence**

The EU takes note of the information regarding the *independence* of the judiciary and, in particular, of the measures regarding the recruitment and career management of judges and state attorneys. The EU underlines the importance of ensuring selection systems based on uniform, transparent, objective and nationally applicable criteria are in place for the recruitment and appointment of judges and state prosecutors. The EU notes Croatia's intention in this respect to introduce further amendments to the underlying legislation (covering the Law on State Judicial Council, the Law on the Prosecution Service, the Law on the Judicial Academy and the Law on Courts) adopted in December 2009 as well as the necessary secondary legislation. The EU notes the necessity to strengthen the public accountability of the judiciary, as well as the importance of preventing political and other interventions in judicial proceedings.

The EU notes that the first intake to the State School for Judges and Prosecutors is planned for October 2010, with first appointments being made on completion of the school programme and examinations in 2012. The EU encourages Croatia to ensure that all necessary steps are taken in good time and underlines the particular importance it attaches to full and proper implementation of transitional provisions for the appointment of judges and prosecutors. In this regard, Croatia should establish a track record demonstrating appointments based on merit without political interference. Particular attention will be paid to the functioning of the State Judicial Council (SJC) and the State Prosecutorial Council (SPC) and to their further strengthening. The EU calls on Croatia to ensure judicial independence is guaranteed with respect to appointments to the position of Court Presidents.

### **Impartiality**

The EU takes note of the information provided by Croatia regarding the *impartiality* of the judiciary in particular the Code of ethics for judges and state attorneys, the system of disciplinary proceedings and the immunity of members of the judiciary. The EU also notes and underlines the importance of Croatia's plans to reform the appointment procedure for members of the SJC and SPC, to remove the scope for political interference in the work of these bodies, and to abolish the 5-year probation period for judges. It invites Croatia to keep the EU regularly informed about the steps taken and planned in this regard. In this context, the EU underlines the importance of a transparent process for the election by peers of professional members of these bodies. In particular, the EU underlines the importance of ensuring efficient and transparent disciplinary procedures. The EU invites Croatia to enhance the capacity of the State Judicial Council and State Prosecutorial Council to perform their key functions, in particular for the appointment, training, promotion and disciplining of judicial officials, and to ensure sufficient impartiality and accountability of these bodies. The EU also calls on Croatia to ensure full application of the Code of ethics and to improve the efficacy of the system of assets declarations of judges and prosecutors, including systematic checking for accuracy. The EU underlines the importance of Croatia demonstrating a track record in these areas. The EU invites Croatia to improve publication of and access to final court decisions both in the interests of the development of case law and consistent judicial practice, and in view of wider public dissemination.

## **Professionalism and competence**

The EU takes note of the information regarding the *professionalism and competence* of the judiciary and in particular of the measures concerning the development of the Judicial Academy, including its newly independent status and plans to increase its capacity and to provide it with permanent premises. The EU invites Croatia to guarantee the independence of the Judicial Academy in practice, to improve the delivery of initial and in-service training, including on matters of EU law, and strengthening the relevant training institutions, including staff increases, and ensuring the planned State School for Judicial Officials carries out its role effectively.

## **Efficiency**

The EU takes note of the information regarding the *efficiency* of the judiciary and, in particular, the reduction of the case backlogs before courts, the process of rationalisation of the court network, the introduction of IT systems, plans for the reform of the enforcement procedure and the introduction of a system of public bailiffs. The EU notes that the case backlog before the courts remains high, especially for old cases, and problems with the length of proceedings remain. The EU invites Croatia to continue its efforts to reduce substantially the case backlogs before all types of courts and to establish a single comprehensive system for statistical monitoring of case handling before all courts and State Attorneys' offices, ensuring *inter alia* that the average length of proceedings for different categories of cases can be adequately monitored. The EU underlines the importance of providing courts with sufficient resources to perform their duties and calls on Croatia to enhance and accelerate its efforts to implement the functional and physical mergers of municipal and misdemeanour courts as well as of prosecutor's offices and to adopt a clearly defined plan for rationalisation of county courts and commercial courts.

The EU calls on Croatia to ensure tangible improvements in the enforcement of court decisions even before introduction of the planned new enforcement system. The EU underlines the importance of reforming the system of administrative justice without delay. The EU notes Croatia's plans as regards alternative dispute resolution (ADR) and encourages Croatia to ensure appropriate recourse to ADR is made in order to contribute to greater judicial efficiency. Greater attention should be paid to out-of-court mediation and to ensuring in-court mediation is not seen as a disincentive in terms of performance indicators for judges. The EU underlines the importance of further improvements to the system of judicial inspections, including staff increases, as well greater transparency in the inspection of prosecution offices. The EU encourages Croatia to ensure the necessary regulations are adopted, training provided and other preparations completed to allow full application of the new provisions of the Criminal Procedure Code concerning the modifications of the judicial investigation and transfer of competence to the State Prosecutor.

## **War crimes**

The EU takes note of the information provided by Croatia on the conduct of domestic *war crimes* investigations and trials. The EU underlines the importance of further progress in this area, not only to serve the interests of justice in Croatia but also to enhance reconciliation both in Croatia and in the region. In this context, the EU also encourages Croatia to continue to address the issue of those reported missing in the conflict in the 1990's. The EU underlines the need to end impunity when it comes to the many un-investigated and un-prosecuted crimes from the 1990s and to overcome resistance at local level to investigate and prosecute certain crimes. In this context, the EU encourages Croatia to effectively deploy investigative resources to investigate the most serious and particularly sensitive cases and to make full, appropriate use of the possibility to transfer cases from local courts to the special war crimes chambers.

The EU also calls on Croatia to demonstrate an end to any bias in war crimes cases and ensure impartial handling of cases by the law enforcement bodies and courts, including through prioritisation of investigations and application of a uniform standard of criminal responsibility. Particular attention should be paid to the uniform application by the judiciary of prosecutorial standards for war crimes trials, and the removal of discrepancies in indictments and court sentences for similar crimes. The EU calls on Croatia to ensure the systematic provision of adequate court appointed counsel to defendants and application of sufficient witness protection measures.

The EU also invites Croatia to implement its action plan for the review of *in absentia* cases, including implementation of the new provisions of the Criminal Procedure Code on renewal of proceedings and deploying other legal remedies such as protection of legality, thus ensuring that both the requests for the renewal of proceedings and any renewed trials are properly and impartially handled by all relevant judicial authorities. The EU notes the work undertaken by Croatia on a database of all war crimes incidents. The EU invites Croatia to complete this database and to make it an effective, operational tool, also at the regional level, that contributes to the prosecution of war crimes.

## **Judicial reform**

The EU takes note of the information provided by Croatia concerning the *judicial reform* process and, in particular, of Croatia's commitment to implementing fully the Action plan of the Judicial Reform Strategy of June 2008, as well as the planned update of this document. The EU stresses the importance of Croatia updating its Judicial Reform Strategy and Action Plan and establishing a track record of their effective implementation, including by ensuring sufficient institutional capacity for the management of judicial reforms, including post-legislative scrutiny. The EU encourages Croatia to proceed without delay with the on-going internal reorganisation of the Ministry of Justice, ensuring sufficient staffing particularly in key reform areas and effective coordination of all the bodies involved. The EU underlines the importance of timely preparations for the use of the European Social Fund, and in particular the Operational Programme for Institutional Capacity Development dealing with judiciary reform and anti-corruption measures.

## **(ii) Anti-corruption**

### **Policy and domestic institutions**

The EU notes the information provided by Croatia as regards the institutional arrangements in place for the coordination, implementation and monitoring of anti-corruption efforts, including the recent upgrading of the anti-corruption commission now chaired by the Prime Minister. The EU stresses the importance of continued high-level monitoring of the accountability and effectiveness of the judicial and administrative systems in tackling organised crime and corruption.

The EU underlines the importance of implementation by Croatia of its National Anti-corruption Strategy and Action Plan, and of ensuring legal and institutional stability of the anti-corruption framework. In particular, Croatia should ensure an effective institutional mechanism of coordination for the implementation and monitoring of anti-corruption efforts, including further strengthening of the Ministry of Justice co-ordination structure and improving the capacity and performance of the Ministry of Administration given its broad responsibilities under the anti-corruption strategy and action plan.

The EU also notes the increasingly pro-active role being played by the National Council for Monitoring the Anti-corruption Strategy. The EU encourages the continuation of this pro-active approach in monitoring the implementation of the Strategy, including through proposing corrective measures to the Strategy and Action Plan and the initiation of regular public debates on corruption issues. In addition the EU encourages the Croatian Government to carry out regular awareness raising activities regarding the existence, causes and gravity of and the threat posed by corruption, involving in a coordinated way all institutions concerned as well as civil society.



The EU notes Croatia's foreseen impact analysis of its anti-corruption strategy as well as its planned update of this strategy and its related action plan, which will see a greater focus on prevention measures such as tackling conflicts of interest, raising integrity and increasing transparency in the State Administration, and improving legislation on political party financing. The EU stresses the importance of reliable statistical data and the importance of ensuring capacity to develop policy impact analysis. The EU underlines the importance of effective implementation of these measures at national and local level, as well as of its action plan on fighting corruption in state owned companies, in particular to reduce political interference and to improve independent oversight and control.

### **Domestic legal framework**

The EU notes the information provided concerning the domestic legal anti-corruption framework in Croatia. The EU encourages Croatia to continue to improve this framework with a view to improving its effectiveness. In particular, the EU encourages Croatia to fully review and improve its current legislation on political party financing, *inter alia*, to extend its scope to election campaigns and to improve transparency and independent oversight. The EU encourages Croatia to fully take into account recent GRECO recommendations in this regard.

The EU also encourages further legislative fine-tuning of the law on USKOK, including with regard to its currently limited competence for tax fraud cases. The EU also notes shortcomings in the legal framework for tackling economic and financial crimes. The EU calls on Croatia to take measures to tackle corruption in the private sector, to make full use of the possibility to prosecute legal persons for corruption, to prosecute cases of money laundering on a "stand-alone" basis and to pursue breaches of Article 300 of the Criminal Code (failure to report knowledge of criminal offences).

The EU notes the information provided as regards Article 82 of the Criminal Procedure Code and invites Croatia to put in place appropriate institutional arrangements for the proper management of property confiscated in criminal proceedings.

The EU underlines the importance of improved transparency, efficiency and integrity in public administration as one pillar of the anti-corruption framework. In this regard, the EU invites Croatia to implement concrete anti-corruption measures, ensure continuous training of staff, and to adopt, amend and implement legislation necessary for full application of the General Administrative Procedures Act such that transparency, objectivity, clarity, efficiency and legal certainty are assured. The EU also invites Croatia to improve access to information legislation and practices such that increased transparency is achieved, to improve implementation of the system of ethics and integrity in public administration and to ensure implementation of anti-corruption action plans in state owned companies. The EU also underlines the importance of depolitisation measures in the civil service and the completion of the legal basis for building a professional civil service through the establishment of a new salary system so as to ensure merit-based promotion, reward mechanisms and retention of skilled staff, thus minimising the risk for corruption.

The EU underlines the importance of substantial improvements in the handling of conflict of interest situations and calls on Croatia to introduce an adequate system to protect against and sanction conflicts of interest at all levels and establish a track record of implementation, including strengthened professional and administrative support available to the Commission for Conflicts of Interest to ensure its effective operation, the issuing of written interpretive guidelines and training for public officials on conflict of interest in all relevant state bodies, ensuring that these guidelines (ethics code/ code of conduct) are pro-actively brought to the attention of staff. The EU also calls on Croatia to introduce an adequate system for monitoring and verification of assets declarations of public officials and judges, including dissuasive sanctions for non-compliance.

## **International legal framework and institutions**

The EU notes that Croatia has aligned with all relevant international legal instruments in this field. The EU encourages Croatia to implement these legal instruments and to adopt anti-corruption policies and measures pursuing a multidisciplinary approach. The EU notes the information provided by Croatia as regards the establishment of the so-called USKOK vertical system in Croatia, made up of USKOK, PNUSKOK and specialised anti-corruption chambers in the County Courts of Zagreb, Split, Osijek and Rijeka. The EU notes that implementation of these recently introduced institutional arrangements is at an early stage. The EU also notes that the anti-corruption chambers exist only at the first instance courts. In this context, the EU underlines the importance of Croatia establishing a track record of effective investigation, prosecution and court rulings in organised crime and corruption cases, regardless of level, including in vulnerable sectors such as public procurement. The EU calls on Croatia to ensure the efficient and effective handling of corruption and organised crime cases by USKOK, the police and the courts, including improved interagency cooperation, especially among law enforcement bodies and in the area of financial cooperation and data handling, and the establishment and implementation of memoranda of understanding and cooperation protocols. The EU also encourages Croatia to improve its international cooperation, particularly on organised crime, including exchange of information based on international conventions.

The EU calls on Croatia to further strengthen the capacity of USKOK, not least in view of its increased responsibilities under the Criminal Procedure Code. The EU calls on Croatia to grant USKOK, PNUSKOK and other anti-corruption bodies the necessary independence to enable these bodies to carry out their functions effectively and free from any undue influence. The EU underlines the importance of investigations being sufficiently broad to ensure all feasible avenues have been explored and warns against limiting investigations, especially those on political corruption, solely for the sake of rapid results. The EU notes that two-thirds of corruption cases are dismissed by the Prosecutor and calls on Croatia to ensure increased transparency and control of such dismissals.

The EU also underlines the importance of ensuring sufficient human and technical resources are available to the police and of improving police effectiveness, including through depolitisation, increased professionalism and appointments based on merit, strengthening specialised expertise, especially for financial crimes, and improved cooperation between PNUSKOK, the tax administration, customs and the police, including financial police. The EU invites Croatia to allocate sufficient resources to strengthen the four PNUSKOK regional offices.

The EU calls on Croatia to increase the capacity of the courts to handle corruption and organised crime cases, including in terms of human resources and logistics, and to ensure the application of dissuasive sanctions. The EU invites Croatia to introduce priority deadlines for the publication of written motivations of sentences.

The EU invites Croatia to ensure adequate statistics are developed to allow effective monitoring of case handling at all stages of the investigative/judicial procedure.

### **(iii) Fundamental rights**

#### **General**

The EU notes information provided by Croatia as regards fundamental rights. The EU invites Croatia to continue to work to improve the situation as regards human rights in particular as regards non-discrimination, procedural safeguards, rights of persons belonging to minorities and cultural rights and the protection of personal data, as well as to take measures against racism and xenophobia.

## Human rights

The EU notes the information provided by Croatia concerning human rights. In particular, the EU notes Croatia's plans concerning *prison conditions*, notably the foreseen increases in prison capacity. The EU encourages Croatia to pursue this and other measures to ease overcrowding in prisons, including full implementation of the new probation system pursuant to the Probation Act of January 2010. The EU stresses that conditions of detainment are one of the key factor for building up mutual confidence in the respective legal systems. As regards *freedom of expression*, the EU invites Croatia to implement its plans in this area ensuring that EU standards are met. The EU underlines that freedom of expression as well as freedom of the press and freedom of assembly are fundamental values of the EU. The EU calls on Croatia to pay particular attention to the investigation and prosecution of incidents of intimidation and violence against journalists, particularly those investigating cases of corruption and organised crime. Moreover, the EU calls on Croatia to ensure editors and journalists do not face political pressure, whether at the national or local level.

As regards *anti-discrimination and hate crimes*, the EU underlines the importance of full implementation of the relevant legislation and ensuring that law enforcement authorities deal effectively with cases. The EU invites Croatia to take measures to strengthen the position of the Ombudsman office as the central body in charge for implementation of the Anti-discrimination law, including availability of adequate budgetary means. The EU also notes the importance of full appropriate follow-up of the recommendations made by the Ombudsman.

The EU encourages Croatia to continue to implement national plans on children's rights, women's rights and with regard to persons with disabilities, to ensure remaining shortcomings are adequately addressed and to reinforce the human resources and financial capacity of the Office for Human Rights and of the Ombudspersons for Children, for Women and for the Disabled.

## **Procedural safeguards**

The EU notes the information provided by Croatia as regards procedural safeguards. The EU notes that the European Court of Human Rights continues to find violations in Croatia regarding the right to a fair trial and the length of the proceedings, including enforcement proceedings, under Article 6 of the Convention. The EU calls on Croatia to take all steps necessary to ensure effective remedies are available in the domestic legal system to prevent undue delays in court proceedings. As regards *the right to a fair trial* and access to justice, the EU underlines the importance of improved implementation of the Law on Legal aid, including through simplified application procedures and a narrowing of the gap between legal aid and normal lawyer tariffs. Moreover, the EU calls on Croatia to ensure proper monitoring of the implementation of the legal aid system and to apply corrective measures as appropriate.

The EU also notes Croatia's plans for the reform of administrative justice based on the Law on Administrative Disputes, including the creation of a two-tier system of administrative courts and the rendering of the Administrative Court as a court of full jurisdiction in the meaning of Article 6 ECHR and Article 47 of the Charter of fundamental rights. In this context, the EU also underlines the importance of broader administrative reform, including *inter alia* through the full implementation of the General Administrative Procedures Act.

## **Respect for and protection of minorities, cultural rights**

The EU notes the information provided by Croatia as regards measures aimed at the *protection of minorities*, including its Action Plan for the implementation of the Constitutional Act on the Rights of National Minorities (CARNM).

The EU underlines the importance of Croatia taking measures to further improve the protection of minorities, in particular the Serb and Roma minorities who face particular challenges. The EU calls on Croatia to improve implementation of the CARNM, in particular in order to address the under-representation of minorities in state administration, the judiciary and the police. In this context, Croatia is invited to provide regular information on the implementation of the employment plans coordinated by the Ministry of Administration and to ensure concrete results are achieved, including through improved monitoring of their implementation. The EU takes note of the information provided concerning the councils for national minorities, including at local level. In this regard the EU invites Croatia to continue to take measures to ensure the effective functioning of these councils, including the budgetary autonomy of the local councils for national minorities.

The EU also calls on Croatia to address discrimination of minorities more widely, including by adopting a strategy aimed at tackling discrimination of minorities in the public sector not covered by the CARNM. Attention should also be paid to access for members of minority groups to social rights. The EU encourages Croatia to continue awareness raising activities for persons belonging to national minorities concerning the rights to which they are entitled and to take measures to build confidence among members of minority groups in the government's minority policy, including through increased transparency and dialogue. The EU calls on Croatia to continue to implement its strategy and action plan for the protection and integration of Roma, especially as regards employment, education and housing, and ensure availability of the necessary means.

The EU underlines the importance of settling outstanding *refugee* issues arising from the conflict in the 1990s. In this regard, the EU underlines the particular importance of further improving the climate for the social and economic reintegration of returnees and facilitating the acceptance of returnees by receiving communities.

The EU also calls for the full implementation of Croatia's Action Plan on the Housing Care Programme for refugees and former tenancy rights holders wishing to return to Croatia, including meeting the targets for 2008 and 2009 for the provision of accommodation both within and outside the Areas of Special State Concern. The EU invites Croatia to make substantial progress in providing accommodation to all other successful applicants for Housing Care on the basis of a fully costed plan. The EU urges Croatia to proceed with caution when handling cases of apartments that have remained unoccupied and underlines that any reallocations should take place based on application of agreed clear and fair criteria, including close cooperation with UNHCR where appropriate. The EU invites Croatia to strengthen the handling of appeals for rejected housing reconstruction applications, to eliminate the backlog of existing appeals and to make significant progress with the reconstruction of the remaining properties.

The EU underlines the importance of continued progress as regards *convvalidation* of decisions and individual acts regarding pension and related rights. The EU invites Croatia to process applications expediently and to undertake sufficient monitoring and remedial measures to ensure uniform application of objective criteria by local pensions offices.

The EU underlines the importance of Croatia improving the accuracy of its statistical monitoring of all aspects of the refugee return process.

Given the important regional dimension of refugee issues and Croatia's commitment to good neighbourly relations, the EU calls on Croatia to actively engage in regional processes aimed at addressing remaining refugee return issues, including lost occupancy and tenancy rights.



## **Measures against racism and xenophobia**

The EU calls on Croatia to implement measures to increase tolerance in society and reconciliation between ethnic groups. In particular, Croatia should encourage a spirit of tolerance towards the Serb minority and take appropriate measures to protect those who may still be subject to threats or acts of discrimination, hostility or violence. Croatia should undertake measures against racism and xenophobia, including through public awareness raising, education, including by reviewing the role of schooling, the media, and adequate response at the political and law enforcement level to racist incidents. The EU invites to fill gaps in the existing legal framework, including by examining the possibility of amending the Misdemeanour law to introduce the misdemeanour of violations against public peace and order caused on racial, ethnic, religious and other grounds.

## **Protection of personal data**

The EU notes Croatia's commitments for alignment with the *acquis* on the protection of personal data. In this regard, the EU invites Croatia to improve the capacity of the Data Protection Agency to conduct its supervision activities.

## **(iv) EU Citizens rights**

### **Right to vote and stand as candidate in municipal elections**

The EU notes Croatia's commitment to adopt the Act on Amendments to the Act on the Election of Members to Representative Bodies of Local and Regional Self-government by the end of 2010, as well as introduce amendments to the relevant Constitutional provisions for the exercise of active and passive electoral rights at local elections in Croatia for EU citizens who reside in Croatia.

## **Right to move and reside freely**

The EU notes Croatia's commitment to amend the Aliens Act in order to fully align its provisions with Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the rights of citizens of the Union and their family members to move and reside freely within the territory of the Member States, as well as its plans to provide civil servants with the necessary training to apply these provisions.

## **Diplomatic and consular protection**

The EU notes Croatia's commitment to amend the Act on Foreign Affairs in 2011 and adopt the relevant implementing regulations in order for Croatia to be able to provide protection to EU citizens in accordance with Decision 95/553/EC of the Representatives of the Governments of the Member States meeting within the Council of 19 December 1995 regarding protection for citizens of the European Union by diplomatic and consular representations, and to apply Decision 96/409/CFSP of the Representatives of the Governments of the Member States meeting within the Council of 25 June 1996 on the establishment of an emergency travel document.

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In view of the present state of preparations, the EU notes that, on the understanding that Croatia has to continue to make progress in the alignment with and implementation of the *acquis* covered by the chapter Judiciary and fundamental rights, in particular in those issues set out above, this chapter may only be provisionally closed once it is agreed by the EU that the following benchmarks are met:

## **Judiciary**

**Croatia updates its Judicial Reform Strategy and Action Plan and ensures effective implementation. In particular,**

- Croatia puts in place sufficient institutional capacity for the management of judicial reforms, including post-legislative scrutiny.

**Croatia strengthens the independence, accountability, impartiality and professionalism of the judiciary. In particular,**

- Croatia establishes a track record of recruiting and appointing judges, state prosecutors and Court Presidents based on the application of uniform, transparent, objective and nationally applicable criteria embedded in the law, including that the State School for Judges and Prosecutors begins effective operation;
- Croatia reforms and strengthens the State Judicial Council and State Prosecutorial Council (including through the election by peers of professional members) so that these bodies perform professionally, impartially and without political or other interference their key functions, in particular in the appointment, career management and disciplining of judges and prosecutors.

**Croatia improves the efficiency of the judiciary. In particular,**

- Croatia substantially reduces the case backlog before the courts, particularly as regards old civil and criminal cases and enforcement decisions, and implements adequate legal and organisational measures to prevent undue delay in court cases, including the introduction of new methods of enforcement to ensure court decisions are enforceable within a reasonable time period, improved use of alternative dispute resolution (ADR), including the simplification of ADR mechanisms, and a track record of implementation of the new Criminal Procedure and Civil Procedure Codes;

- Croatia makes progress with the physical infrastructure and computerisation of courts, the accelerated introduction of case management systems, in particular the Integrated Case Management System (ICMS), the establishment of a unified statistical system for the monitoring of all types of cases handled before all courts and at prosecution services, and introduces random case allocation in all courts;
- Croatia continues to implement the rationalisation of municipal and misdemeanour courts, ensuring efficient operation of the merged courts, and sets out clearly the long term logistical and financial means for completing the court rationalisation process; Croatia adopts a clearly defined plan for rationalisation of county and commercial courts.

**Croatia improves the handling of domestic war crimes cases. In particular,**

- Croatia establishes a track record of impartial handling of war crimes cases by the law enforcement bodies and courts and takes effective action to address issues of impunity, in particular by ensuring the proper investigation and prosecution of as yet un-investigated and un-prosecuted crimes, including adoption and implementation of a clear strategy which addresses, inter alia, regional discrepancies within Croatia, as well as continued engagement at the bilateral and regional level;
- Croatia implements its action plan for the review of in absentia cases and the new provisions of the Criminal Procedure Code on renewal of proceedings and deploying other legal remedies such as protection of legality, ensuring renewal of proceedings requests and renewed trials are properly and impartially handled by all relevant judicial authorities.

## **Fight Against corruption**

**Croatia establishes a track record of substantial results based on efficient, effective and unbiased investigation, prosecution and court rulings in organised crime and corruption cases at all levels including high level corruption, and in vulnerable sectors such as public procurement. In particular,**

- Croatia further reinforces the operational capacity of USKOK, including by extending its remit to tax fraud linked to organised crime and corruption offences, improving financial expertise and ensuring sufficient training and resources in view of its new role in the accusatorial system introduced in July 2009;
- Croatia takes measures to improve police effectiveness and independence, including through depolitisation and improved professionalism, strengthening specialised expertise, especially for financial crimes, and improved cooperation with other agencies, the financial sector and international partners; Croatia applies effectively and consistently the confiscation provisions of article 82 of the Criminal Code and establishes clear responsibilities and rules for the proper management of property confiscated in criminal proceedings.
- Croatia increases the capacity of the courts to handle cases adequately, including in terms of human resources and logistics.

**Croatia establishes a track record of strengthened prevention measures in the fight against corruption and conflict of interest. In particular,**

- Croatia increases transparency and integrity in public administration and state owned companies, including by improving legislation on the access to information and its implementation, by adopting, amending and implementing legislation necessary for full application of the General Administrative Procedures Act, by implementing anti-corruption action plans in state owned companies and by continuous training of staff;

- Croatia amends its current legislation on political party financing, inter alia, to extend its scope to election campaigns and to improve transparency and independent oversight;
- Croatia ensures there are effective legislation and systems in place to protect against and sanction conflicts of interest at all levels of state/public administration, and to monitor and verify assets declarations of public officials and judges, including dissuasive sanctions for non-compliance. Croatia ensures that effective systems are in place to enable and support those reporting corruption and maladministration in public institutions.

### **Fundamental rights**

**Croatia strengthens the protection of minorities, including through effective implementation of the Constitutional Act on the Rights of National Minorities (CARNM). In particular,**

- Croatia takes steps to ensure a tangible improvement in the level of employment of national minorities in state administration bodies and bodies of local and regional self-government, in the police and in the judiciary, and establishes an effective system of statistical monitoring, including through the adoption, implementation and monitoring of employment plans in all relevant bodies;
- Croatia carries out a comprehensive study into the under-representation of minorities in the wider public sector not covered by the CARNM and adopts a plan to tackle the shortcomings identified;
- Croatia undertakes measures aimed at reconciliation and increased tolerance among citizens, including through education and reviewing the role of schooling, through the media, and by an adequate response at the political and law enforcement level to racist or xenophobic incidents;

**Croatia settles outstanding refugee return issues. In particular,**

- Croatia fully implements its Action Plan on the Housing Care Programme for refugees and former tenancy rights holders wishing to return to Croatia, including meeting the targets for 2008 and 2009 for the provision of accommodation both within and outside the areas of special state concern; Croatia makes substantial progress in providing accommodation to all other successful applicants for Housing Care on the basis of a fully costed plan;
- Croatia strengthens the handling of appeals for rejected housing reconstruction applications, eliminates the backlog of existing appeals and makes significant progress with the reconstruction of the remaining properties;

**Croatia improves the protection of human rights. In particular,**

- Croatia improves access to justice, including by taking the necessary steps to ensure that, by accession, the Administrative Court is made a court of full jurisdiction in the meaning of Article 6 ECHR and Article 47 of the Charter of fundamental rights, both in law and practice; and by ensuring improved implementation of the Law on legal aid;
- Croatia establishes a track record of implementation of the Anti-Discrimination Law and the Law on Hate Crimes, ensuring that law enforcement authorities deal effectively with cases and that the Office of the Ombudsman is strengthened.

**Cooperation with the International Criminal Tribunal for the former Yugoslavia**

**Full cooperation with the ICTY remains a requirement for Croatia's progress throughout the accession process, including for the provisional closure of this chapter, in line with the negotiating framework adopted by the Council on 3 October 2005.**

Monitoring of progress in the alignment with and implementation of the *acquis* will continue throughout the negotiations. The EU underlines that it will devote particular attention to monitoring all specific issues mentioned above with a view to ensuring Croatia's administrative capacity. Particular consideration needs to be given to the links between the present chapter and other negotiation chapters. A final assessment of the conformity of Croatia's legislation with the *acquis* and of its implementation capacity can only be made at a later stage of the negotiations. In addition to all the information the EU may require for the negotiations in this chapter and which is to be provided to the Conference, the EU invites Croatia to provide regularly detailed written information to the Stabilisation and Association Council on progress in the implementation of the *acquis*.

In view of all the above considerations, the Conference will have to return to this chapter at an appropriate moment.

Furthermore, the EU recalls that there may be new *acquis* between 1 January 2010 and the conclusion of the negotiations.

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