



Organization for Security and Co-operation in Europe

Mission to Croatia

Headquarters

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Background Report: EC recommends that EU membership negotiations begin with Croatia

The EC's *Opinion* on Croatia's EU membership application

The European Commission (EC) issued its *Opinion* on Croatia's EU membership application on 20 April 2004 and recommended that EU accession negotiations be opened. The EC stated that "... Croatia meets the political criteria set by the Copenhagen European Council in 1993 and the Stabilization and Association process conditionalities established by the Council in 1997". The European Council is expected to decide in mid-June whether Croatia will receive the status of an EU accession country and when negotiations should begin.

Background to Croatia's EU membership application

Croatia signed a Stabilization and Association Agreement (SAA) with the EU on 29 October 2001 [see Weekly Report No. 43/2001]. The Government of Croatia submitted Croatia's application for EU membership on 21 February 2003 [see Fortnightly Report No. 4/2003]. On 10 July 2003, the EC delivered its questionnaire to the Government in order to allow it to produce its *Opinion* [see Fortnightly Report No. 14/2003]. The Government provided its answers to the questionnaire on 9 October [see Fortnightly Report No. 20/2003]. Some additional follow-up questions and requests for clarifications were posed by the EC until before the *Opinion* was given.

The initial efforts required for the EC to give its *Opinion* were undertaken during the term of the previous Government, led by the former Prime Minister from the Social Democratic Party (SDP), Ivica Račan. In November 2003, the SDP-led coalition was replaced after four years in government by the Croatian Democratic Union (HDZ) following its victory at national elections. The HDZ President, Dr. Ivo Sanader, was appointed the new Prime Minister on 22 December with the support of a narrow parliamentary majority [see Fortnightly Report No. 23/2003].

Immediately upon taking office, and following its pre-election programme, the HDZ pledged to continue the previous Government's work and realize the country's strategic goals of EU and NATO membership. This undertaking marked a fundamental and positive shift in policy for the HDZ as a mainstream party. At the end of 2001, the entire HDZ parliamentary group had walked out during the vote on the SAA. The Government's pro-EU credentials were strengthened through a number of policy statements immediately after taking office. The new Prime Minister and other new Government officials announced a number of reconciliatory initiatives towards Croatia's national minorities, in particular the Serb minority with which it eventually signed an agreement of co-operation in areas such as housing reconstruction and property repossession [see Fortnightly Report No. 6/2004]. Further, the new Government

announced initiatives designed to reach out to its neighbours, thereby fulfilling expectations from its potential EU and NATO partners.

The Copenhagen political criteria for EU membership

The political criteria for EU membership closely parallel the OSCE's mandate in Croatia. These include the return of refugees and displaced persons, the reform of the judiciary, the protection of human rights and minority rights, freedom of the media, co-operation with the ICTY, the impartial conduct of domestic war-crime prosecutions, police reform, and enhanced regional co-operation, which the Mission supports by various forms of monitoring, advice and assistance.

In the political area, the EC states that "Croatia has democratic institutions which function properly ..." and that "[t]here are no major problems [with] assuring the rule of law and respect for fundamental rights". On some issues that were previously assessed by the international community as outstanding or deficient, the EC notes certain commendable strides made by Croatia towards trying to become a future EU member but stresses that "Croatia needs to make additional efforts in the field of minority rights, refugee returns, judiciary reform, regional co-operation and the fight against corruption".

In addition to judicial reform and refugee return, co-operation with the ICTY received the most attention both domestically and internationally in the months before the EC finalized its *Opinion*, especially regarding the case of the indicted General Ante Gotovina. The EC reports in its *Opinion* that the ICTY Chief Prosecutor now finds Croatia to be in full compliance with its ICTY commitments and obligations. Owing in part to the fact that the assessment of full co-operation with the ICTY was only very recently given by the ICTY Chief Prosecutor, the EC notes the clear imperative of the Government to maintain full co-operation and continue with the necessary steps to locate and transfer General Gotovina to The Hague as soon as possible.

The EC states that further requirements of co-operation with the ICTY will include implementation of meaningful measures to eliminate deficiencies in the domestic judiciary as well as strengthen co-operation with regional neighbours. The Mission notes that the issue of full co-operation with the ICTY is also likely to remain at the forefront of further EC reporting in light of the fact that the Government has announced its intention to act as *amicus curiae* in the case of Generals Ivan Cermak and Mladen Markac [see the Mission's Spot Report, dated 12 March 2004]. A parliamentary debate on co-operation with the ICTY, as well as on the Government's assistance as *amicus curiae* to these two Generals and to six former Croatian Army and Bosnian Croats officials who also recently voluntarily surrendered to The Hague, is scheduled to take place in the near future [see Mission's Spot Report, dated 6 April 2004].

The draft *European Partnership* with Croatia

On each of the specific issues addressed, the EC recommends further measures in both the short and medium term in order for Croatia to fully conform to EU membership criteria. These recommendations are presented together with the *Opinion* in the form of a draft *European Partnership* with Croatia, an approach to working with SAA countries that was agreed upon at the Thessaloniki European Council in June 2003. The *European Partnership* is scheduled to be adopted at a later date by the European Council.

In respect to the Mission's mandate, core *Partnership* requirements with regard to the political criteria can be summarized and explained as follows:

- Accelerate the pace of **refugee return** in the short term by completing the housing reconstruction and repossession processes and by implementing legislation for compensation of lost occupancy/tenancy rights for those who used to live in socially owned housing and who wish to return. Create in the medium term a system which ensures the proper implementation of relevant legislation, and create economic development programmes to support refugee reintegration. (The issue of refugee return is addressed in the draft *European Partnership* document under the heading on human rights and the protection of minorities.)
- Develop a comprehensive **judicial reform** strategy in the short term. Ensure adequate funding for high-quality judicial training, create an open and fair recruitment and evaluation system, reduce the case backlog, and ensure the full execution of court decisions. Rationalize the organization of courts in the medium term, and allow for greater access to legal aid and training in EU legislation. (Linking judicial reform to Croatia's caseload at the European Court of Human Rights [ECHR], the EC notes in the *Opinion* that the relatively high number of cases at the ECHR reflects deficiencies in the domestic judiciary, including the extent to which the Constitutional Court serves as an effective domestic remedy on human rights issues).
- Advance **human rights protection** by improving co-operation with the Ombudsman, taking fully into consideration the findings expressed in his recommendations and annual report.
- Protect **minority rights** in the short term through the full implementation of the Constitutional Law on the Rights of National Minorities (CLNM). Realize proportional representation of minorities in government, state administration and in the judiciary. Support the development of Councils for National Minorities, which were created in the CLNM, and implement the National Programme on Roma. Continue with measures in the medium term to improve the situation of Roma, and implement anti-discrimination measures to ensure equal employment opportunities for minorities. Increase access to education and improve the housing conditions of minorities.
- Promote **freedom of the media** in the short term by reviewing media-related legislation in line with recent recommendations prepared jointly by the EC, the Council of Europe and the OSCE, in particular towards the adoption of a Law on Media and efforts to ensure the political and financial stability of Croatian Radio-Television and its regulatory and decision-making bodies. Ensure that legislation related to libel reflects European standards in this field.
- Maintain full **co-operation with the ICTY**, including steps to locate, arrest, and transport General Ante Gotovina to The Hague. (Linking the process of ICTY co-operation with regional co-operation and domestic war-crimes prosecution in Croatia, the EC notes in the text of the *Opinion* that further reform will be required to ensure impartial and even-handed administration of criminal justice irrespective of ethnicity,

and that this necessary to maintain full co-operation and allow for the hand-over of war-crimes cases from the ICTY to Croatia as part of the ICTY completion strategy.)

- Improve co-ordination of Croatian **law enforcement** agencies with the judiciary in the short term, with a view towards combating organized crime and illicit trafficking activities. Strengthen border management and provide specialized border training. Improve police infrastructure and provide equipment in the medium term, and align Croatian legislation in these areas with the *acquis*.
- Address current bilateral issues in the short term affecting **regional co-operation**, including border issues with Bosnia and Herzegovina, Serbia and Montenegro, and Slovenia.

Reactions in Croatia to the EC's *Opinion*

The clear positive character of the EC's *Opinion* and its recommendation to the European Council to begin accession negotiations were extremely well received in Zagreb and positively reported across the country.

Prime Minister Sanader stated that “[i]mportant political goals such as admission to the EU require a consensus of all parties and I share the pleasure of having made the first concrete step on that road with all parties and the entire Croatian public”. According to the Croatian Minister of Foreign Affairs, Miomir Zuzul, the *Opinion* “... gives [Croatia] the right to expect not only a positive decision of the European Council in June, but also a date for the start of accession talks”.

A large part of the most recent discussion has focused on the question of whether it is now realistic for Croatia to become an EU member in 2007, together with Bulgaria and Romania. By a subtle change in the rhetoric, the Government seems to be preparing the public for the possibility of Croatia not reaching that ambitious target. Other aspects of the debate include discussions about when Croatia will start receiving pre-accession funds and how and where they will be spent. At the same time, many Government officials and media commentators have stressed that Croatia must intensify its efforts as identified in the draft *European Partnership* document. Those who have taken a critical approach have noted the significant tasks that remain, in particular with regard to what must still be accomplished in the field of judicial reform and the importance of maintaining full co-operation with the ICTY.

Many high-ranking Government officials, in particular the Minister of Foreign Affairs, have also been quick to stress the importance that Croatia will continue to place on stability in the region and its important role therein as a future EU member. According to the Minister, “Croatia can contribute to solutions [in the region]. The difference today is that it no longer approaches the region unilaterally but as a future [EU member]”.

Mission assessment of the *Opinion* on mandate issues

The HoM stated in a press release on 21 April that the Mission will continue acting as a partner and providing assistance to the Government in support of its EU aspirations. He stated his hope that “... Croatia’s anchoring in Europe will further contribute to it finding the strength to resolve the remaining difficult issues ... The OSCE will be a reliable partner on this path”. The Head of Delegation of the EC in Croatia also emphasized the significant work

ahead for Croatia, stating that “[t]here are still a number of open issues ... [w]e expect the Government to keep working on [them]”.

Most of the tasks still to be accomplished by Croatia represent core Mission mandate areas of activity. The Mission has provided extensive reporting and analysis on these issues from its headquarters in Zagreb and field offices in the war-affected areas, with the view towards providing recommendations and assistance. It has acquired significant expertise and insight on many of the remaining issues identified in the *European Partnership* document. The Mission will thus continue discussions with the Government on how it can most effectively support the resolution of the tasks in Croatia’s Euro-Atlantic integration efforts at this new stage.

Main areas of priority will include various Mission activities designed to support refugee return by ensuring access to housing, in particular property repossession and housing for former occupancy/tenancy rights holders. It will also support the sustainability of refugee return in receiving communities, both in terms of bringing about further reconciliation and trust-building as well as political and social reintegration of refugees into their former communities. Further, the Mission will continue to support the removal of other legal and administrative obstacles to refugee return. Other specific measures will include support for the further implementation of minority rights, particularly provisions in the CLNM for minority representation in public administration, the judiciary, etc.; assistance to key domestic human rights institutions such as the Constitutional Court and the Ombudsman; and advice on police reform.

The Mission will also continue its monitoring of domestic war-crimes prosecutions for purposes of following ongoing proceedings and providing input to the Government and the ICTY on the steps needed for successful implementation of the ICTY completion strategy, including consolidation of impartial tribunals and co-operation with the judiciaries of neighbouring countries.